



**Written Testimony of
The Ethics and Religious Liberty Commission
United States Senate—Committee on the Judiciary
Hearing on H.R. 5, March 17, 2021**

Overview

The Equality Act would curtail religious freedom protections, violate the consciences of pro-life healthcare professionals and faith-based hospitals, undermine civil rights protections for women and girls, and ultimately overrule the consciences of millions of Americans.

The Ethics & Religious Liberty Commission (ERLC) is an entity of the Southern Baptist Convention (SBC). The ERLC is dedicated to engaging the culture with the gospel of Jesus Christ and speaking to issues in the public square to protect religious liberty and promote human flourishing. Our vision can be summed up in three words: kingdom, culture, and mission.

The ERLC exists to help churches understand the moral demands of the gospel, apply Christian principles to moral and social problems and questions of public policy, and to promote religious liberty in cooperation with the churches and other entities of the Southern Baptist Convention.

The ERLC affirms the full dignity of every human being. At the 2018 Annual Meeting of the Southern Baptist Convention, the Messengers passed a resolution to “reaffirm the sacredness and full dignity and worthiness of respect and Christian love for every single human being, without any reservation.” The SBC’s commitment to love of neighbor is grounded in the truth that “God created man in His own image; He created Him in the image of God; He created them male and female.” (Gen. 1:26-27)

Baptists and Religious Liberty

Baptists have always defended the separation of church and state and liberty of conscience. The Equality Act threatens both of these critical American ideals. The separation of church and state means that the government is not empowered to dictate or suppress doctrine and

practice. This benefits all Americans by placing clear boundaries around the state's authority. This bill would not merely erode but dissolve those boundaries, bringing the full weight of government against religious institutions and individual Americans simply for holding fast to their fundamental beliefs about anthropology and personhood. As Russell Moore, president of the ERLC, has said, "A government in the business of running the church, or claiming the church as a mascot of the state, invariably persecutes and drives out genuine religion." Similarly, when the government stifles the freedom to dissent, whether from religious doctrine, political ideologies, or views related to human sexuality, it abandons its constitutional duty to protect civil liberties.

John Leland, a Baptist champion of religious liberty, challenged James Madison to ensure that religion and rights of conscience would be protected under the United States Constitution. Madison subsequently introduced the Bill of Rights as amendments to the Constitution, and Baptists have been faithful and ardent supporters of these bulwarks of freedom. Pluralism is a defining feature of our nation, and Baptists have long recognized that neither ideological conformity nor religious coercion are necessary for effective government. Instead, tolerance and persuasion are the instruments of civil discourse. The freedom of expression and robust and vigorous debate are critical elements of American society. The Equality Act would not advance but eradicate these instruments and ideals.

It is difficult to describe how tragic it would be for the Senate to pass a bill that repudiates the moral center of American government. The very premise of the Bill of Rights is that human beings, simply by their nature, enjoy fundamental liberties that the government has an obligation to protect. The Equality Act does more than threaten these freedoms; if enacted, it will contradict them explicitly. No American should ever be forced to compromise his or her religion or violate conscience to avoid punishment at the hands of their government. This legislation would needlessly penalize and discriminate against millions of Americans who possess no animus toward those this bill purports to aid. As law, the Equality Act would undermine pluralism, legalize coercion, imperil religious liberty, eliminate conscience protections, and erode the very freedoms enshrined in the First Amendment.

Analysis of H.R. 5

1. If enacted, the Equality Act would bring sweeping and historic changes to religious liberty with devastating effects to this foundational freedom.

Through the Equality Act, Congress would punish faith-based charities for their core religious beliefs about human dignity and marriage. While the proposed intention of H.R. 5 is to protect individuals who identify as LGBT, the bill fails to respect people's freedom of conscience. H.R. 5 erodes foundational constitutional freedoms in its pursuit of fleeting cultural ideas.

H.R. 5 threatens the efforts of faith-based adoption and foster care agencies. The legislation would explicitly curtail the Religious Freedom Restoration Act of 1993, which would force faith-based child welfare organizations to either abandon their deeply held religious beliefs or be shut down. The state forced closures of such agencies is especially harmful at a time when multiple societal crises increase the need for children services.

H.R. 5 hinders the work of healthcare professionals and faith-based hospitals. While religiously affiliated hospitals routinely serve patients of any background, including those who identify as LGBT, providers who hold moral or religious beliefs cannot perform every procedure a patient requests. For example, doctors and nurses who object to gender reassignment surgeries for moral, religious, or scientific reasons would be forced to provide the procedure or risk losing their jobs.

2. The Equality Act would be the most pro-abortion bill ever passed by Congress.

The Equality Act would force healthcare workers and pro-life healthcare providers to participate in and provide abortions. Central to a Christian's understanding of government is that government exists to secure rights granted by God. One of these inalienable rights is the freedom of conscience, not to be infringed by the state. H.R. 5 would redefine the term "sex" to also include "pregnancy, childbirth, or a related medical condition." This language would roll back federal law that protects the consciences of pro-life nurses and physicians who object to participating in abortions because of their deeply held religious or moral beliefs. These conscience protections carry decades of bipartisan consensus—a consensus that no person should be compelled to participate in an act they believe to be gravely immoral.

H.R. 5 would also jeopardize the longstanding Hyde Amendment that protects federal taxpayer dollars from funding abortion. There is nothing equalizing about forcing Americans to fund abortion through taxpayer dollars. Preventing taxpayer dollars from abortion protects consciences, saves lives, and respects the freedom of Americans to seek to persuade one another without state-sanctioned conscience intrusion. Every person is made in the image of God, and the United States has a responsibility to reflect that truth in its laws.

3. H.R. 5 undermines decades of hard fought civil rights protections for women and girls.

The Equality Act disregards the privacy and safety concerns that women rightly have about sharing sleeping quarters and intimate facilities with the opposite sex. Single gender spaces, such as locker rooms or shelters, would no longer be protected by law. This departure from a legal understanding of gender as male and female makes women and girls vulnerable to biological males being in their private spaces. For example, shelters for those women and girls escaping domestic abuse or homelessness would be forced to house biological men who identify as female.

Another example of the harm this legislation poses to women and girls is in athletics and academics. Since 1972, Title IX has advanced women's sports and scholarship in remarkable ways. If enacted, the Equality Act would threaten female competition as both areas would then be open to biological males as well.



In sum, H.R. 5 would undermine the ability of Americans who disagree to work together for the common good. These legislative changes represent a dramatic departure from the foundations of tolerance and civil discourse. If enacted, the Equality Act would bring sweeping and historic changes to religious liberty with devastating effects to this foundational freedom. As Russell Moore often notes, “A government that can pave over the consciences of some can steamroll over dissent everywhere.”