

# THE AMERICAN EQUALITY BILL

(Draft July 4, 2010)

## SUMMARY OF PROPOSED CHANGES TO EXISTING LEGISLATION TO END LEGAL DISCRIMINATION IN AMERICA ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

### A. EMPLOYMENT DISCRIMINATION.

**SECTION 1.** Amends Title VII the Civil Rights Act of 1964, to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in employment.

**SECTION 2.** Amends the Civil Service Reform Act of 1978, the Government Employee Rights Act of 1991, the Congressional Accountability Act of 1995, and 3 U.S.C. 411 (a)(1), to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in employment.

**SECTION 3.** Amends the Government Employee Rights Act of 1991, 42 U.S.C. §2000e-16a et seq., to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in employment.

**SECTION 4.** Amends the Family and Medical Leave Act of 1993 to clarify the definitions of “parent” and “son or daughter.”

### B. HOUSING DISCRIMINATION.

**SECTION 5.** Amends the Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in the sale or rental of housing, real estate related transactions, and the provision of brokerage services.

### C. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION.

**SECTION 6.** Amends Title II of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited bases for discrimination or segregation in places of public accommodation.

**D. DISCRIMINATION IN THE USE OF PUBLIC FACILITIES.**

**SECTION 7.** Amends §2000b of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited bases for denial of equal use of public facilities.

**E. DISCRIMINATION IN ACCESS TO CREDIT.**

**SECTION 8.** Amends the Equal Credit Opportunity Act of 1974 to add “sexual orientation” and “gender identity” as prohibited basis for discrimination in any aspect of a credit transaction.

**F. DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS OR ACTIVITIES.**

**SECTION 9.** Amends Title VI of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in federally funded programs or activities and adding an exemption for religious organizations.

**G. DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES.**

**SECTION 10.** Amends the Americans with Disabilities Act to repeal discriminatory provisions.

**THE AMERICAN EQUALITY BILL**  
**(Scope and content only. This is not in filing format.)**

**SHORT TITLE.**

Upon passage, this bill may be cited as the ‘The American Equality Act of 2010’.

**PURPOSE.**

The purpose of this Act is to realize the American ideal of equal protection under the law by amending existing civil rights legislation to include protections based on sexual orientation and gender identity.

**FINDINGS OF LEGISLATIVE FACT.**

(This will be an elaborate section that details the discrimination against LGBT people. Content TBD.)

## **A. EMPLOYMENT DISCRIMINATION.**

**SECTION. 1.** Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, is amended to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in employment, as follows:

a. The following definitions shall be added at the end of §2000e:

(o) The term “sexual orientation” means homosexuality, heterosexuality, or bisexuality.

(p) The term “gender identity” means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

b. Sections 2000e-2(a)-(d), §2000e-2(h), §2000e-2(j), §2000e-2(l), §2000e-2(m), §2000e-3(b), 2000e(g)(2)(A), §2000e-16(a), and §2000e-16(c), are amended every time the phrase “race, color, religion, sex, or national origin” appears to include after the word “sex” the following words:- “sexual orientation, gender identity,”

c. Dress and Grooming Standards. Nothing shall prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law, provided that the employer permits any employee who has undergone gender transition prior to the time of employment, and any employee who has notified the employer that the employee has undergone or is undergoing gender transition after the time of employment, to adhere to the same dress or grooming standards for the gender to which the employee has transitioned or is transitioning.

d. Certain Shared Facilities. Nothing shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

**SECTION 2.** The Civil Service Reform Act of 1978, as amended, 5 U.S.C. §2302; Government Employee Rights Act of 1991, 42 U.S.C. 2000e-16a et seq.; Congressional Accountability Act of 1995, 2 U.S.C. 1301 et seq.; and Section 411(a) (1) of Title 3 of the United States Code are amended to specify that “sexual

orientation” and “gender identity” are prohibited bases for discrimination, as follows:

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. 5 U.S.C. 2302(b)(1)(A) and 5 U.S.C. 2302(d)(1); 42 U.S.C. 2000e-16a and 42 U.S.C. 2000e-16b; 2 U.S.C. 1311(a)(1); and 3 U.S.C. 411(a)(1) are amended every time the phrase “race, color, religion, sex, or national origin” appear to add after the word “sex” the following words: “sexual orientation, gender identity”

c. 42 U.S.C. 2000e-16a(b) is amended every time the phrase “race, color, religion, sex, national origin, age, or disability” appear to add after the word “sex” the following words: “sexual orientation, gender identity”

d. Certain Shared Facilities. Nothing shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

**SECTION 3.** The Government Employee Rights Act of 1991, 42 U.S.C. §2000e-16a et seq., is amended to add “sexual orientation” and “gender identity” as prohibited bases for discrimination, as follows:

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 2000e-16a(b) is here by amended every time the phrase “race, color, religion, sex, national origin, age, or disability” occurs by inserting after the word “sex” the following words:- “sexual orientation, gender identity,”

c. Certain Shared Facilities. Nothing shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

**SECTION 4.** The Family and Medical Leave Act of 1993, as amended, 29 U.S.C. §2611, is amended to clarify the following definitions:

(7) Parent. The term “parent” means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. For purposes of this statute, the term “in loco parentis” includes but is not limited to an individual who is a defacto or psychological parent of the child.

(12) Son or daughter. The term “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, a child registered as a “dependent” or similar classification under the employer’s domestic partnership policy, or a child designated by an employee and his or her domestic partner as a “dependent” or similar classification pursuant to a municipal, state or federal domestic partnership registry, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(13) Spouse - The term “spouse” means a husband or wife, as the case may be. For purposes of this statute, the term “spouse” includes a person designated a domestic partner under the employer’s domestic partnership policy, an employee’s civil union partner, a spouse from a domestic or foreign marriage, and a domestic partner registered pursuant to a municipal, state or federal law.

## **B. HOUSING DISCRIMINATION.**

**SECTION. 5.** The Fair Housing Act, as amended, 42 U.S.C. §3601 et seq., is amended to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in the sale or rental of housing, real-estate related transactions, and the provision of brokerage services.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Sections 3604(a)-(b) are amended every time the phrase “race, color, religion, sex, familial status, or national origin” appears by inserting after the word “sex” the following words: “sexual orientation, or gender identity,”

c. Sections 3604(c)-(e), 3605(a), and 3606 are amended every time the phrase “race, color, religion, sex, handicap, familial status, or national origin” appears by inserting after the word “sex” the following words: “sexual orientation, or gender identity,”

d. Section 3605(c) is amended every time the phrase “race, color, religion, national origin, sex, handicap, or familial status” appears by inserting after the word “sex” the following words:- “sexual orientation, or gender identity,”

### **C. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION.**

**SECTION 6.** Title II of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000a et seq., is amended to add “sexual orientation” and “gender identity” as prohibited bases for discrimination or segregation in places of public accommodation.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Sections 2000a(a) and 2000a-1 are amended every time the phrase “race, color, religion or national origin” appears by inserting after the word “religion” the following words: “sexual orientation, or gender identity,”

c. Certain Shared Facilities. Nothing shall be construed to establish an unlawful practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the proprietor provides reasonable access to adequate facilities that are not inconsistent with the individual's gender identity as established with the proprietor at the time the relationship first began or upon notification to the proprietor that the individual has undergone or is undergoing gender transition, whichever is later.

### **D. DISCRIMINATION IN THE USE OF PUBLIC FACILITIES.**

**SECTION 7.** 42 U.S.C. §2000b, is amended to add “sexual orientation” and “gender identity” as prohibited bases for denial of equal use of public facilities as follows:

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 2000b(a) is amended every time the phrase “race, color, religion or national origin” occurs by inserting after the word “religion” the following words:- “sexual orientation, gender identity,”

c. Certain Shared Facilities. Nothing shall be construed to establish an unlawful practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the proprietor provides reasonable access to adequate facilities that are not inconsistent with the individual's gender identity as established with the proprietor at the time of the relationship first began or upon

notification to the proprietor that the individual has undergone or is undergoing gender transition, whichever is later.

#### **E. DISCRIMINATION IN ACCESS TO CREDIT.**

**SECTION 8.** The Equal Credit Opportunity Act of 1974, 15 U.S.C. §1691 et seq., is amended to add “sexual orientation” and “gender identity” as prohibited bases for discrimination in any aspect of a credit transaction as follows:

- a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.
- b. Section 1691(a)(1) is amended every time the phrase “race, color, religion, national origin, sex or marital status, or age” occurs by inserting after the word “marital status” the following words:- “sexual orientation, gender identity”.

#### **F. DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS OR ACTIVITIES.**

**SECTION 9.** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d, is amended to add “sexual orientation” and “gender identity” as prohibited bases for exclusion from participation in, denial of the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance, as follows:

- a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.
- b. Section 2000d is amended every time the phrase “race, color, or national origin” occurs by inserting after the word “color” the following words:- “sexual orientation, or gender identity,”
- c. The provisions of this section regarding sexual orientation and gender identity shall not apply to any educational institution, as that term is defined in 20 U.S.C. 1681(c), which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization as determined in its sole discretion.

#### **G. DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES.**

**SECTION 10.** The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§12101 et seq., and the Rehabilitation Act of 1973, as amended, 42 U.S.C. §706, are amended to repeal discriminatory provisions, as follows:

- a. 42 U.S.C. §12208 is repealed.

b. 42 U.S.C. §12211(b)(1) is amended to delete the words “transvestism” and “transsexualism” and the phrase “gender identity disorders not resulting from physical impairments,” from the definition of “Certain conditions” excluded from coverage under the Act.

c. 29 U.S.C. §705(8)(F)(i) is amended to delete the words “transvestism” and “transsexualism” and the phrase “gender identity disorders not resulting from physical impairments,” from the list excluding from protection an ‘individual with a disability’ for purposes of Section 501, 503 and 504 of the Rehabilitation Act.

END.