

Resistance Recess  
LGBTQ Issues Guide

Portions of this guide were adapted from [Lifting Economic Policies That Support All Families](#)

Issues Covered:

- LGBT Non-Discrimination
  - Equality Act
  - Section 1557 of the Affordable Care (ObamaCare)
  - LGBTQ non-discrimination regulation
- Religious Exemptions
  - Trump executive order
  - First Amendment Defense Act
- Supreme Court Nominee - Judge Neil Gorsuch
- Oversight of Federal Agencies

LGBTQ Non-Discrimination

- 1. Ask your members of Congress to support the Equality Act. If they support it, thank them.**
- 2. Tell your members of Congress to fight any attempt to repeal the Affordable Care Act, including Section 1557 of the Act.**

Despite what many people think, explicit sexual orientation and/or gender identity non-discrimination laws do not exist in over half of the states in the U.S., which means that LGBTQ individuals can be fired, denied care, or thrown out of their homes for being LGBTQ without any recourse under state or local law. Without legal protections, LGBTQ workers face discrimination that makes it harder for them to find and keep a job and provide for their families. Census data analyses confirm that in nearly every state, men in same-sex couples earn less than men in heterosexual marriage earn, and lesbians and bisexual women are more likely to live in poverty than are heterosexual women. A national survey of transgender individuals found that 47% of respondents had been discriminated against in hiring, promotion, or job retention. And 26% of Latina/o transgender individuals have been terminated from their jobs because of bias. In 2014 the Public Religion Research Institute [found](#) that nearly 70% of Americans support LGBTQ workplace protections.

*Equality Act:* The [Equality Act](#) was introduced in the [114th Congress](#) and is expected to be introduced in the current Congress. The Equality Act would explicitly prevent LGBTQ people from being discriminated against in the areas of employment, housing, access to public places, credit, federal funding, and jury service. The law would also amend current law by preventing discrimination on the basis of sex in federal funding and access to public spaces.

*Section 1557 of the ACA:* Under [Section 1557](#) of the Affordable Care Act (aka ObamaCare) a person may not be discriminated against based on sex when participating in health programs or services that are run or funded by the Department of Health and Human Services (HHS) and in ACA marketplace or insurance plans. HHS has interpreted sex discrimination to include gender identity. On December 31, 2016 a federal judge in Texas stopped HHS from enforcing this part of Section 1557. However, the fight is not over. In addition to fighting in the courts, we must make sure that Congress does not repeal this important provision of the ACA.

*LGBTQ non-discrimination regulation:* Currently, federal regulations ban federal contractors and subcontractors from discriminating against LGBTQ employees. The Williams Institute [estimates](#) that the law protects an additional 16.5 million more workers than were already protected by state or private anti-discrimination policies. President Trump can change the regulation by amending it or signing an executive order that provides for broad religious exemptions (see below for more on religious refusals).

To find out if LGBTQ people are protected from discrimination in your state or town, visit the Movement Advancement Project's Equality Map [page](#).

### Religious Exemptions

- 1. Ask your members of Congress if they oppose the First Amendment Defense Act. If they oppose it, thank them.**
- 2. Tell your members of Congress to speak out against any attempt by Trump to sign an executive order furthering religious exemptions to federal laws.**

The First Amendment Defense Act, like many other recently proposed state laws, would dramatically broaden religious exemptions to permit people, churches, non-profit organizations, and sometimes corporations to violate laws—including even public health and non-discrimination laws—that they say conflict with their religious beliefs or moral convictions. Dozens of these types of bills have been filed in state legislatures across the country targeting LGBTQ people and other marginalized communities. Compared to the general U.S. population, the LGBTQ community already experiences higher rates of employment discrimination, as well as discrimination in accessing healthcare. This is exacerbated for LGBTQ people of color: 36% of Latina/o transgender persons have postponed needed healthcare because they feared discrimination. Even without employer interference, LGBTQ persons are refused treatment by their providers and healthcare facilities on the basis of discriminatory personal beliefs.

These broad new religious exemptions would also allow healthcare professionals and institutions to refuse to provide comprehensive reproductive healthcare services, impacting access to birth control, sterilization, and abortion services. Seventeen states allow individual providers to refuse to perform sterilizations, 6 states permit pharmacists to refuse to fill contraception prescriptions, and 45 states allow individual providers to refuse to perform abortions. Nearly 75 percent of Americans [believe](#) treating everyone fairly under the law takes precedence over one's religious beliefs. Additionally, over 60% of people of faith in this country agree.

*Trump executive order:* Many expect that Trump will sign an executive order (EO) that will further extend overly broad religious exemptions to federal laws. So even if Trump does not get rid of the federal LGBTQ workplace regulations, this EO would provide a huge loophole. Drafts of the possible EO include provisions that would expand redefined religious exemptions for any employer that is a federal contractor, subcontractor, recipient of a federal grant or participant in a federal purchase order. It would also allow religious health care providers and closely held health care providers to refuse to treat LGBTQ people if it conflicts with their sincerely held religious beliefs or moral convictions and permit child welfare institutions to discriminate against LGBTQ individuals and couples seeking to foster or adopt a child. The draft EO would additionally empower child welfare agencies to discriminate against single parents and religious minorities.

*First Amendment Defense Act:* As [introduced](#) in the last Congress, the [First Amendment Defense Act](#) (FADA) would allow state-sanctioned discrimination by allowing individuals, non-profits and many businesses contracting with the federal government to go around protections designed to protect LGBT

people, same-sex couples and their children, single mothers and their children, and unmarried couples from discrimination. Senator Ted Cruz stated he would introduce the bill in the current Congress and President Trump has said that he would sign it into law. In addition to being discriminatory, FADA is unnecessary. The U.S. Constitution protects both the freedom of religion and freedom from religion. Let's work together to ensure that civil rights and human rights protections are not trampled on.

To track current state religious exemptions bills visit [here](#).

Supreme Court Nominee - Judge Neil Gorsuch

### **Tell your Senators to oppose the confirmation of Judge Neil Gorsuch for Supreme Court Justice.**

After Senate Republicans spent a year blocking the confirmation of President Obama's Supreme Court nominee, Judge Merrick Garland, Trump has nominated Judge Neil Gorsuch to fill the vacant Supreme Court seat. Judge Gorsuch is [a far-right extremist](#) whose views are far outside the mainstream and whose scholarship and decisions strongly indicate that he will undermine the rights of women, people of color, workers, and LGBT people on the Court. In a 2005 *National Review* article he criticized LGBT people for relying on federal courts to fight for equality. In a 2015 court opinion, Judge Gorsuch rejected the claim of a transgender woman in prison who argued that the state of Oklahoma violated her constitutional rights by denying her access to necessary hormone treatment and the right to wear feminine clothing. In addition to being bad on civil rights, Gorsuch would continue to be a voice for corporations and the wealthy on the Supreme Court as he has been on the 10th Circuit Federal Court. [An independent assessment](#) of his jurisprudence concluded that he is to the right of Justice Scalia.

Oversight of Federal Agencies

### **Ask your members of Congress how they plan to prevent Trump appointees from rolling back LGBTQ protections.**

President Trump's cabinet is turning out to be one filled with individuals who are inexperienced and hostile to the missions of the agencies they will be leading. Each member of Congress sits on committees that are responsible for overseeing specific federal agencies. For example, the [Senate Committee on Health, Education, Labor, and Pensions](#) (HELP) looks over the departments of Labor, Education, and Health and Human Services. Members of Congress must do their job to watch over the agencies to make sure they do not attempt to roll back on previous advances made to protect the LGBTQ community. Examples include the ban on federal contractors and subcontractors from discriminating against LGBTQ employees and the Equal Access Rule, which bans discrimination based on sexual orientation and gender identity in Housing and Urban Development funded housing, including shelters. They can do this by requesting reports from an agency, calling hearings, or conducting investigations. However, the majority party (in this Congress in both chambers it is the Republicans) has a lot more power to determine what the committee does. To learn more about the role of Senate committees visit [here](#) and to find out more on the House of Representatives visit [here](#).

To find out Senate committee assignments visit [here](#) and to find House of Representatives committee assignments visit [here](#).

For more useful resources, check out [Resistance Recess](#), [100 Days and Me](#), [Townhall Project 2018](#), and [Indivisible](#).