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May 14, 2019

RE: Vote yes on H.R. 5, the Equality Act, and oppose any Motion to Recommit

Dear Representative:

On behalf of Americans United for Separation of Church and State, I write to urge you to vote in favor of the Equality Act (H.R. 5), and oppose any motion to recommit (MTR). The patchwork nature of our current civil rights laws leaves millions of LGBTQ people subject to uncertainty and potential discrimination that impacts their safety, their families, and their everyday lives. The Equality Act, therefore, has been carefully crafted to create a uniform national standard that would explicitly prohibit discrimination based on sexual orientation and gender identity in key areas, including employment, housing, public accommodations, public education, federal funding, credit and financing, and jury service.

In addition to providing critical protections for LGBTQ people, the bill would also close longstanding gaps in civil rights law by prohibiting sex discrimination in public places and services and in federally funded programs. And the Equality Act would strengthen legal protections against discrimination on the basis of race and religion by expanding the public places and services covered.

Moreover, the Equality Act upholds religious freedom, which is a fundamental American value that guarantees we can all believe (or not) as we see fit, but also ensures we can't use religion to harm or discriminate. The bill would safeguard against attempts to misuse religious freedom to discriminate in public settings or with federal funds. To be clear, the Equality Act would not change the religious exemptions that currently exist in our civil rights laws. Nor would it alter or amend the Religious Freedom Restoration Act (RFRA). The bill would merely clarify that RFRA cannot be misused to prevent enforcement of any of the federal civil rights laws covered in the bill. Yet, this provision is critical to the bill.

Congress adopted RFRA in 1993 as a shield to protect religion. Despite the fact that courts have long rejected religious claims as a reason to deny civil rights protections,¹ we now see efforts to use RFRA as a sword to undermine nondiscrimination laws.²

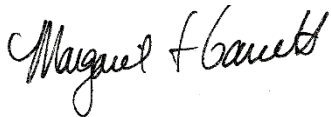
¹ See, e.g., *Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400, 402 n.5 (1968) (per curiam) (rejecting restaurant owner's claim that he did not need to comply with public accommodation laws because his "religious beliefs compel him to oppose any integration of the races whatever," 256 F. Supp. 941, 944 (1966)); *Masterpiece Cakeshop v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719, 1727 (2018) (recognizing that "a member of the clergy who objects to gay marriage on moral and religious grounds could not be compelled to perform the ceremony without denial of his or her right to the free exercise of religion," but also that if this "exception were not confined," it would result "in a community-wide stigma inconsistent

We cannot risk that RFRA could be misused to undermine the protections in the Equality Act. Indeed, allowing businesses and entities that accept federal funds to cite religion to ignore the bill's protections would undermine a key goal of this Act—to make nondiscrimination laws uniform. LGBTQ people should be allowed to live their lives with dignity and respect; their basic legal protections should not be stripped whenever they encounter a business, employer, or landlord that cites a religious belief that says otherwise.³

The Equality Act has unprecedented support from a significant majority of Americans, the business community, the faith community, and major statewide and national organizations. We urge you to be on the right side of history. Please vote in favor of the Equality Act and oppose any MTR.

If you have any questions, please contact me at garrett@au.org or 202-898-2140.

Sincerely,



Maggie Garrett
Vice President for Public Policy

with the history and dynamics of civil rights laws that ensure equal access to goods, services, and public accommodations.”).

² See, e.g., Mem. for the Gen. Counsel, Office of Justice Programs, from John P. Elwood, Dep. Ass’t Att’y Gen., Office of Legal Counsel Re: Application of the Religious Freedom Restoration Act to the Award of a Grant Pursuant to the Juvenile Justice and Delinquency Prevention Act (June 29, 2007) (stating that taxpayer-funded social service providers can use RFRA to violate federal laws that prohibit employment discrimination federal grant programs); *Maddonna v. Dep’t of Health & Human Servs.*, No. 6:19-cv-00448-TMC (D.S.C. filed on Feb. 15, 2019) (challenging RFRA exemption to federal law barring discrimination in federally funded foster care programs in South Carolina).

³ “To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself.” *Employment Division v. Smith*, 494 U.S. 872, 879, (1990) quoting *Reynolds v. United States*, 98 U.S. 145, 166-167 (1879).