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By Anne Cullen

House Passes LGBTQ Rights Bill Over GOP Religious Fears

Law360 (February 25, 2021, 4:42 PM EST) -- The House approved the Equality Act on Thursday with a 224-206 vote after a tense and emotional hearing in which many Republicans insisted that religious freedom will take a hit if the sweeping LGBTQ rights measure becomes law. The bill passed by a vote of 224-206 with three Republicans joining Democrats in voting yes.

During the more than two-hour-long debate, Rep. Jim Jordan, R-Ohio, and other members of his party painted the proposal as an attack on the rights of religious organizations, insisting that forcing faith-based institutions to treat gay, lesbian, transgender and bisexual people equally would compromise those organizations' religious beliefs.

"This bill makes how a person identifies more important than equality, makes it more important than fairness, makes it more important than fundamental liberties like your right to practice your faith the way the good Lord wants you to," Jordan argued.

Democrats, who control the chamber, overruled their objections and approved the bill without considering any amendments. Three Republicans also signed onto the plan.

The outcome was largely expected as the House cleared an earlier iteration of the plan in 2019, though that proposal was later blocked by the then-Republican-controlled Senate.

Like its predecessor, the bill approved Thursday would write in protections for LGBTQ individuals to Title VII of the Civil Rights Act and various other federal civil rights statutes, explicitly protecting them from discrimination based on their sexual orientation or gender identity in employment, education, housing, public accommodations and other contexts.

House Speaker Nancy Pelosi, D-Calif., who gave a lengthy defense of the proposal during the floor debate, said LGBTQ individuals have been left without federal anti-discrimination protections for too long.

"[The Equality Act] is sadly necessary," she said, "because many members of the national LGBTQ community live in states where though they have the right to marry, they have no state-level nondiscrimination protections in other areas of life."

The House bill is spearheaded by Rep. David Cicilline, D-R.I., who made clear Thursday that his plan "does no more and no less than say LGBTQ people deserve the same rights and responsibilities as all other Americans, most fundamentally, the right to live lives free of discrimination."

However, the measure has drawn the ire of Republican lawmakers who have dubbed it the "inequality act," citing fears that faith-based businesses and groups will be forced to violate their religious beliefs if the bill becomes law.

At the core of Republicans' concerns is the Equality Act's provision that says the Religious Freedom Restoration Act, or RFRA, can't be used as a defense against a claim of discrimination arising under the LGBTQ rights proposal.

The Clinton-era statute blocks the government from infringing on a person's religious rights unless it has a good reason and does so in the "least restrictive" way.

This facet of the bill could limit the avenues for religious organizations to defend themselves if they're accused of discriminating against someone who's gay, lesbian, transgender or bisexual, though the First Amendment's right to religious exercise provides other faith-based defenses for these entities.

The religious freedom-focused arguments offer a preview of the headwinds the plan will face in the Senate, where Democrats will need to get at least 10 Republicans on board to overcome the filibuster.

House Majority Leader Steny Hoyer, D-Md., expressed hope during Thursday's debate that the draft won't "be lost in the politics" of the upper chamber.

"I hope the Senate Republicans, who have stood in the way of equality for LGBTQ Americans for too long, can finally come together with them in a bipartisan fashion," he said. Pelosi said in her speech Thursday that Democrats "will never stop fighting until the Equality Act becomes law."

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