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Sexual Orientation and Gender Identity Policies

Summary and Key Talking Points

Policy Proposals

1. Protect the freedom of all Americans to think, speak, work, and act according to their beliefs about marriage, the innate sexual differences between men and women, and biological reality.
2. Protect minors from harmful “gender-transition” procedures and “therapies.”
3. Oppose any federal bill and regulation that would enshrine gender ideology in law.

Quick Facts

1. Religious institutions contribute \$1.2 trillion to the economy every year. An estimated 350,000 religious congregations operate countless local services.
2. Among minors who struggle with gender dysphoria, up to 88 percent of girls and 98 percent of boys who are not prevented from going through puberty reconcile with their biological sex.
3. Three in four (73 percent) Americans say that parents should not lose custody of their child because they refuse to allow their child to use puberty-blocking drugs or cross-sex hormones.

Power Phrases

Protect Civil Liberties

- The United States must recognize and protect the beliefs of all Americans, not just those who agree with progressive orthodoxy.
- Sexual orientation and gender identity (SOGI) laws are not about tolerance and have spawned lawsuits against countless businesses that affirm natural marriage or recognize that the two sexes are a biological reality.
- A sweeping, federal SOGI law like the proposed Equality Act would hobble the services of religious organizations including pregnancy resource centers, soup kitchens, schools, drug addiction programs, and adoption agencies.

Inform Americans of the Real-world Consequences of SOGI

- “Gender-affirming” medical interventions put minors on a pathway to sterilization and lifelong medicalization of psychological distress.

- Policies that allow boys to “identify as” female to compete in girls’ sports teams are fundamentally unfair and prevent girls from reaching their full potential.
- Parents should not lose custody of their children because they refuse to allow their children to use puberty-blocking drugs or cross-sex hormones.

The Issue

Americans face growing pressure in education, culture, and the marketplace to embrace radical ideologies that deny the truth of natural marriage and the reality of biological sex.

From social media and Hollywood to cereal boxes and children’s books, a relentless flood of propaganda denounces those who do not affirm gender ideology and sexual radicalism. Mega corporations and tech giants threaten boycotts of cities and states that fail to toe the new party line. Boys and men who “identify as” female compete in female sports and use women’s private spaces with impunity and elite approval. And 22 states and hundreds of localities have enacted laws enshrining sexual orientation and gender identity (SOGI) in civil rights code to punish those who dissent from this state-sanctioned orthodoxy.

This is no accident. Tim Gill, whom *Rolling Stone* dubbed “the megadonor behind the LGBTQ rights movement,” has said that the goal of SOGI laws is “to punish the wicked.” That is, SOGI laws are designed to disparage those who affirm natural marriage or recognize that the two sexes are a biological reality.

SOGI laws are not about tolerance. Where passed, these laws have spawned lawsuits against countless businesses. They also cleared the way for dangerous and experimental medical procedures on minors, jeopardize the safety and privacy of women and girls, undermine parents’ rights and the conscience rights of medical providers, and violate freedom of religion and speech.

SOGI laws contradict what U.S. Supreme Court Justice Anthony Kennedy wrote in the 2015 *Obergefell* case. In the majority opinion, Justice Kennedy, even while overturning state laws defining marriage as the union of one man and one woman, said that those beliefs and the people who hold them are worthy of respect. He noted that the natural view of marriage “has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world.” Moreover, the Court ruled that many “reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here.”

But the Court’s redefinition of marriage had consequences. Almost as soon as *Obergefell* overturned laws that recognized that marriage was grounded in nature rather than mere romantic preference, the floodgates opened, and gender ideologues stormed through. The tragic story of the Martinez family highlights the danger of SOGI laws. At her high school, Yaeli Martinez began to identify as a boy. The school, by policy, supported the “transition” but did not inform Yaeli’s mom, Abby. When she found out, Abby declined to put her daughter on cross-sex hormones and, for this, lost custody of her daughter to the Los Angeles County Department of Children and Family Services.

For three years, Yaeli lived with a gender activist and took cross-sex hormones, and Abby could not intervene. Then the worst happened. Despite the department’s claim that “transitioning” Yaeli and removing her from her mother would keep her from committing suicide, Yaeli took her own life.

Cases like this have become far more common as schoolteachers, psychologists, social workers, and other activists are subverting parents’ rights by targeting minors with gender propaganda.

Holding perennial views on the nature of marriage and the reality of sex is not discrimination. Such views do not justify state infringement on parental rights. Policymakers should uphold Americans' rights to think, speak, and act according to their moral, medical, and scientific views on these subjects. Protecting these rights will foster true tolerance and social peace. Pushing SOGI laws does just the opposite.

Recommendations

To protect children, parents, businesses, and all Americans from being forced to comply with radical sexual ideology, state and federal policymakers should:

Protect the freedom of all Americans to think, speak, work, and act according to their beliefs about marriage, the innate sexual differences between men and women, and biological reality itself. Americans should be free at school, in the workplace, and in the public square to live according to their moral, religious, and scientific beliefs on these matters. But sweeping bills like the misnamed Equality Act would impose gender ideology as state-sanctioned orthodoxy in all 50 states. In states where similar bills have been enacted, those who disagree with the new orthodoxy may face discrimination charges. "Compromise" solutions, such as the Fairness for All Act and the Respect for Marriage Act, also fail to protect Americans' freedoms and restrict freedom of expression on marriage and sex to private spaces.

In contrast, conservatives should push for legislation that recognizes and protects the "decent and honorable" beliefs of *all* Americans, not just those who agree with government-enforced orthodoxy. Bills like the First Amendment Defense Act or the Civil Rights Uniformity Act would do just that. The first prohibits the federal government from punishing any entity with which it contracts or which it accredits or licenses for affirming that marriage is exclusively between a man and a woman. The second would prevent any executive branch agency from defining "sex" in civil rights code to include "gender identity." Such laws will ensure that medical professionals, school faculty, religious institutions, and parents can live and act freely without fear of punishment.

Preserve and protect the right of parents to approve what their children are taught and exposed to and to oversee their children's medical treatment. The Supreme Court has long recognized that parents have the primary right and duty to care for and guide their children. As the Court affirmed in *Pierce* (1925), "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." Increasingly, however, educators and medical professionals are undermining these rights. In schools, children are *secretly* taught radical ideology and are bombarded with inappropriate sexual content without parental permission and even contrary to parents' stated wishes. In some cases, schools have withheld vital information from parents about their children's mental and physical health. In some states, minors can receive "sensitive" health care, including "gender transition," without parental consent. All this can profoundly harm minors' health and development. State and federal policies must protect children by ensuring that parental rights are treated with the strictest respect. Legislators should support bills that require opt ins (rather than opt outs) for sensitive curricula and protect parental consent when it comes to medical and mental health care for minors.

Protect minors from harmful "gender-transition" procedures and "therapies." Contrary to activists' claims, the best medical research does *not* show that "gender transition" improves mental health for minors. The longest-term study found that even adults who fully transition are 19 times more likely than the average person to commit suicide. Moreover, those who transition chemically or surgically experience irreversible damage, such as sterilization, sexual dysfunction, atrophy, loss of bone density, or heart disease. This damage is especially tragic, as among minors who struggle with gender dysphoria, up to [88 percent of girls and 98 percent of boys](#) who are not prevented from going through puberty reconcile with their biological sex. Internationally, the U.K. has closed its only pediatric gender clinic. And the U.K., as well as Denmark, Finland, and

Sweden, have now put strict limits on these procedures. In the U.S., as of July 2023, 23 states have passed laws protecting children from experimental “gender transition” procedures. The other states and the federal government should do the same.

Anchor the definitions of *sex*, *male*, and *female* firmly in biological reality. Through administrative rulemaking, the Biden Administration is attempting to legally redefine “sex” to include “gender identity” and “sexual orientation.” To protect their citizens from the threat of these ideological constructs, states should anchor the legal definitions of *sex*, *male*, *female*, *man*, and *woman* in biology and oppose the adoption of the “LGBTQIA+” lexicon.

Oppose any federal bill and regulation that would enshrine gender ideology in law. Activists have been trying to expand the “discrimination” prohibitions on the basis of sex to include sexual orientation and gender identity. A federal SOGI law like the Equality Act would have a devastating effect on Americans. Tying SOGI language to federal funding or tax-exempt status would curtail religious freedom. Disqualifying all groups that object to the new sexual orthodoxy would cost the federal government some of its best partners in serving the public.

In addition, bills like the Fairness for All Act and the Respect for Marriage Act are not enough to protect the common good. They wrongly elevate sexual orientation and gender identity to protected categories of civil rights law and contain only narrow religious exemptions for limiting the harms. Indeed, new regulations from the Department of Education and the Equal Employment Opportunity Commission would compel millions of Americans to affirm falsehoods or risk losing their jobs and reputations. Short of stand-alone bills, gender activists push for laws and regulations that accomplish the same goal—one word or phrase at a time. Legislators must learn to spot buzzwords that disguise such efforts. These include the use of “gender” to refer to “gender identity,” terms such as “gender minorities,” “sexual minorities,” and “gender equity,” and offensive euphemisms, such as “menstruating individual” or “birthing person” rather than “woman” or “mother.”

At the United Nations and other international organizations, the U.S. should:

Strengthen the protection of individual human rights and oppose creation of new rights based on gender ideology. Gender activists view the U.N. as a beachhead to advance their social policies in ways that influence American law and policy. The U.S. should promote reform of the U.N. human rights bureaucracy and hold it to its mandate to promote and protect basic freedoms. The U.N. should not be imposing an extreme ideology that is contrary not only to the Western tradition but to the views of every other traditional culture. The U.S. should respect the sovereignty of other U.N. member states in these matters and reject any insertion of SOGI language into negotiated U.N. texts.

Facts + Figures

FACT: Contrary to activists’ claims, medical “transition” procedures that modify sex traits are harmful and should be prohibited, especially for minors.

- A major [long-term study](#) on gender transition found that adults who medically “transitioned” were more than 19 times more likely to commit suicide than the average person.
- According to the American Psychiatric Association’s [Diagnostic and Statistical Manual](#), up to 88 percent of girls and 98 percent of boys experiencing gender dysphoria will reconcile with their biological sex if allowed to go through puberty.
- A [Heritage Foundation study](#) found that U.S. states where minors have access to puberty-blocking drugs without parental consent had higher teen suicide rates than states that require parental consent.

FACT: SOGI laws harm Americans in countless ways.

- “Gender-affirming” medical interventions put minors on a pathway to sterilization and lifelong medicalization of psychological distress.
- Despite a Supreme Court ruling protecting his freedom of speech, Jack Philips, owner of Masterpiece Cakeshop, is being sued by activists a third time for refusing to violate his conscience by affirming same-sex marriage and gender ideology.
- In 2018, the City of Philadelphia passed an ordinance that shut down Catholic Social Services for its view of marriage.
- In 2018, a man who identifies as a woman sued a women-only shelter in Anchorage for refusing to let him in.
- Policies that allow boys to “identify as” female to compete in girls’ sports teams harm girls. In Connecticut, high school track and field athlete Chelsea Mitchell lost four state championship titles to a boy who identifies as a girl. This cost Chelsea her well-deserved athletic and scholarship opportunities.

FACT: Most Americans believe that those who support natural marriage and recognize biological sex should be free to express their beliefs.

- Three in four Americans ([73 percent](#)) say that parents should not lose custody of their children because they refuse to allow their children to use puberty-blocking drugs or cross-sex hormones.
- About six of every 10 Americans believe that employers and insurers (66 percent) and doctors and medical professionals (59 percent) should not be forced to pay for or perform “gender-affirming” (which are in effect sex-erasing) surgeries.
- At least two-thirds of Americans oppose letting boys and men compete in girls’ and women’s sports.
- Most Americans support laws restricting minors’ access to puberty blockers, cross-sex hormones, or surgeries for purposes of gender transition.
- Sixty-five percent of Americans agree that nonprofits should be free to follow their convictions rather than affirm same-sex marriage and gender transition.
- Eighty-nine percent of Americans agree: The best way to help foster kids and orphans is to draw from a wide range of adoptive families and agencies—including those that affirm the natural truths of sex and marriage.

FACT: A sweeping, federal SOGI law like the Equality Act would hobble the services of some 350,000 religious organizations. These include pregnancy resource centers, soup kitchens, schools, drug addiction programs, and adoption agencies.

- Religious institutions contribute \$1.2 trillion to the economy every year.
- These organizations serve 70 million Americans a year, and their services are valued at more than \$44.3 billion annually. Such private services are often [better at meeting human needs](#) than are government programs.

Resources

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The Heritage Foundation, American Perceptions Initiative, [Poll: Americans Are Wary of Gender Identity and Sexual Orientation Ideology and Policy's Impact on Minors](#), February 2021.

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