



United States Conference of Catholic Bishops

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June 8, 2021

Dear Senator,

We write to raise pro-life and other concerns about the Paycheck Fairness Act, H.R. 7.

H.R. 7 would amend the Fair Labor Standards Act. The FLSA, among other things, prohibits unequal wages between men and women performing equal work. 29 U.S.C. § 206(d)(1). Wages include all forms of remuneration, including “fringe benefits” such as “medical, hospital, [and] accident ... insurance,” “life insurance,” “retirement benefits,” and “leave.” 29 C.F.R. §§ 1620.10, 1620.11.

Strengthening federal law to ensure equal compensation for equal work as between men and women is a laudable legislative goal, and we heartily endorse that goal. See *Economic Justice for All*, no. 167 (1986) (“Particular attention is needed to achieve pay equity between men and women”); *Compendium of the Social Doctrine of the Church*, no. 295 (2004) (“An urgent need to recognize effectively the rights of women in the workplace is seen especially under the aspects of pay, insurance and social security.”); Pope Francis, Audience with Delegates from the Confederation of Trade Unions in Italy (June 28, 2017) (“And what I am about to say may seem obvious, but in the world of work women are still in second class. You might say, ‘No, but there is that businesswoman, that other one...’; yes, but if women earn less, are more easily exploited... do something.”). Indeed, Congress could do more in this area.

Unfortunately, H.R. 7 has moved in a different direction. On March 24, the House Committee on Education and Labor marked up the bill to *redefine* the term “sex” to include such items as “sex stereotypes,” “pregnancy, childbirth, or a related medical condition,” “sexual orientation,” “gender identity,” and “sex characteristics, including intersex traits.”

H.R. 7’s redefinition of sex in the FLSA is seriously problematic. We believe that if the bill were to pass, the FLSA could be construed to require employers, including even religious organizations, to (a) cover and pay for abortions, contraceptives, and gender transition procedures in their health plans, (b) treat same-sex civil marriages as equivalent to traditional marriages in the provision of spousal benefits, and (c) facilitate abortions and gender transition procedures by providing paid leave for that purpose as part of existing paid leave programs. In this way, the bill would require many religious organizations to be involved in and to approve things they sincerely believe are wrong.

Some may argue that Title VII already imposes all or some of these requirements. That argument—in addition to rendering the redefinition of “sex” in this bill seemingly redundant in whole or in part—overlooks the fact that Title VII has religious exemptions and abortion-neutral language that *are not found in the FLSA*. The Supreme Court has put off to another day the resolution of the question of exactly how the sex discrimination provisions of Title VII intersect with the religious convictions of employers. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1753-

54 (2020). H.R. 7 would raise a similar question but in a different statutory setting, one in which the critical religious exemptions and abortion-neutral language of Title VII *are entirely missing*.

For these reasons, we urge members to oppose the redefinition of sex in H.R. 7 and instead revert to the version of the bill that passed the House in the 116th Congress.

Sincerely,

Handwritten signature of Timothy Cardinal Dolan in black ink, starting with a cross symbol.

His Eminence Timothy Cardinal Dolan
Archbishop of New York
Chairman, Committee for Religious Liberty

Handwritten signature of Joseph F. Naumann in black ink, starting with a cross symbol.

Most Reverend Joseph F. Naumann
Archbishop of Kansas City in Kansas
Chairman, Committee on Pro-Life Activities

Handwritten signature of Paul S. Coakley in black ink, starting with a cross symbol.

Most Reverend Paul S. Coakley
Archbishop of Oklahoma City
Chairman, Committee on Domestic Justice
And Human Development

Handwritten signature of David A. Konderla in blue ink.

Most. Rev. David A. Konderla
Bishop of Tulsa
Chairman, Subcommittee for the Promotion
and Defense of Marriage