

SJRES 42

A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Food and Nutrition Service relating to "Application of Bostock v. Clayton County to Program Discrimination Complaint Processing-Policy Update".

Congress: 118 (2023–2025, Ended)

Chamber: Senate

Policy Area: Agriculture and Food

Introduced: Jul 27, 2023

Current Status: Failed of passage in Senate by Yea-Nay Vote. 47 - 50. Record Vote Number: 272.

Latest Action: Failed of passage in Senate by Yea-Nay Vote. 47 - 50. Record Vote Number: 272. (Oct 26, 2023)

Official Text: <https://www.congress.gov/bill/118th-congress/senate-joint-resolution/42>

Sponsor

Name: Sen. Marshall, Roger [R-KS]

Party: Republican • **State:** KS • **Chamber:** Senate

Cosponsors (19 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Blackburn, Marsha [R-TN]	R · TN		Jul 27, 2023
Sen. Braun, Mike [R-IN]	R · IN		Jul 27, 2023
Sen. Cotton, Tom [R-AR]	R · AR		Jul 27, 2023
Sen. Crapo, Mike [R-ID]	R · ID		Jul 27, 2023
Sen. Ernst, Joni [R-IA]	R · IA		Jul 27, 2023
Sen. Hawley, Josh [R-MO]	R · MO		Jul 27, 2023
Sen. Lankford, James [R-OK]	R · OK		Jul 27, 2023
Sen. Risch, James E. [R-ID]	R · ID		Jul 27, 2023
Sen. Wicker, Roger F. [R-MS]	R · MS		Jul 27, 2023
Sen. Britt, Katie Boyd [R-AL]	R · AL		Sep 7, 2023
Sen. Mullin, Markwayne [R-OK]	R · OK		Sep 20, 2023
Sen. Tillis, Thomas [R-NC]	R · NC		Sep 27, 2023
Sen. Vance, J. D. [R-OH]	R · OH		Oct 4, 2023
Sen. Lee, Mike [R-UT]	R · UT		Oct 16, 2023
Sen. Cruz, Ted [R-TX]	R · TX		Oct 17, 2023
Sen. Rubio, Marco [R-FL]	R · FL		Oct 17, 2023
Sen. Scott, Rick [R-FL]	R · FL		Oct 17, 2023
Sen. Budd, Ted [R-NC]	R · NC		Oct 18, 2023
Sen. Daines, Steve [R-MT]	R · MT		Oct 19, 2023

Committee Activity

Committee	Chamber	Activity	Date
Agriculture, Nutrition, and Forestry Committee	Senate	Discharged From	Oct 17, 2023

Subjects & Policy Tags

Policy Area:

Agriculture and Food

Related Bills

Bill	Relationship	Last Action
118 HJRES 92	Identical bill	Jan 11, 2024: Referred to the Subcommittee on Nutrition, Foreign Agriculture, and Horticulture.

Summary (as of Jul 27, 2023)

This joint resolution nullifies the policy update issued by the Food and Nutrition Service (FNS) on May 5, 2022, related to discrimination on the basis of gender identity and sexual orientation.

The Government Accountability Office (GAO) deemed the policy update a rule on June 5, 2023, and therefore subject to the Congressional Review Act (CRA) requirement that a rule must be submitted to Congress and the GAO before it can take effect. The CRA also permits Congress to review and disapprove rules using specified procedures.

In June 2020, the U.S. Supreme Court held in *Bostock v. Clayton County* that, under Title VII of the Civil Rights Act of 1964, the prohibition on sex discrimination in employment includes discrimination on the basis of sexual orientation and gender identity.

The FNS determined that the *Bostock* analysis also applies to certain FNS-enforced requirements under the Food and Nutrition Act of 2008 and Title IX of the Education Amendments of 1972 because the requirements are sufficiently similar to those in the Civil Rights Act of 1964.

The FNS rule concludes that the prohibitions against sex discrimination in the FNS-enforced statutes prohibit discrimination on the basis of gender identity and sexual orientation. The rule also directs state agencies and program operators to handle complaints alleging discrimination on the basis of gender identity and sexual orientation as complaints of prohibited sex discrimination.

Actions Timeline

- **Oct 26, 2023:** Measure laid before Senate by unanimous consent. (consideration: CR S5210)
- **Oct 26, 2023:** Failed of passage/not agreed to in Senate: Failed of passage in Senate by Yea-Nay Vote. 47 - 50. Record Vote Number: 272.
- **Oct 26, 2023:** Failed of passage in Senate by Yea-Nay Vote. 47 - 50. Record Vote Number: 272.
- **Oct 17, 2023:** Senate Committee on Agriculture, Nutrition, and Forestry discharged, by petition, pursuant to 5 U.S.C. 802(c).
- **Oct 17, 2023:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 229.
- **Jul 27, 2023:** Introduced in Senate
- **Jul 27, 2023:** Read twice and referred to the Committee on Agriculture, Nutrition, and Forestry.

LegiList

CONGRESS, MADE CLEAR.

Search Every Federal Bill, Law, and Vote

LegiList is the fastest way to research Congress. Track any bill from introduction to enactment, see how every legislator voted, follow committee activity, and read the full text of every bill — all in one place, always up to date.

legilist.com

Free Course: Learn How Congress Actually Works

LegiList Learn is a free, self-paced course that walks through the entire legislative process — from drafting a bill to a presidential signature. Seven modules, plain language, no politics. Earn a certificate when you finish.

legilist.com/learn

Developer API: Build Apps on Legislative Data

The LegiList API gives developers direct access to bills, votes, legislators, committees, and more. Start free with 1,000 requests per day — no credit card required. Upgrade to Pro when you need to scale.

legilist.com/api

Public data belongs to the public. — legilist.com