



End discrimination based on sexual orientation and gender identity

Statement of Thomas Witt in Support of HB2323
Executive Director, Equality Kansas
House Committee on the Judiciary
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Good afternoon Mr. Chairman and members of the committee. I am here today to speak in support of HB2323, and I thank you for the opportunity to do so.

I am Thomas Witt, Executive Director of Equality Kansas, which works to eliminate discrimination based on sexual orientation and gender identity. Today we ask you to amend the Kansas Acts Against Discrimination to add protection for sexual orientation and gender identity, whether actual or perceived.

The Kansas Act Against Discrimination currently protects Kansans from discrimination in housing, employment, and public accommodations based on race, religion, color, sex, disability, familial status, national origin, or ancestry. Kansas Acts Against Discrimination was originally established in 1953, and has been amended at least nine times since then. Kansas has continued to amend the Kansas Acts Against Discrimination as the need has been shown to protect the fundamental rights of employment, housing, and public accommodations for those who have been – and still are - targets of discrimination.

HB2323 does not include any amendments to the current affirmative action statutes. There are no quotas, no mandate requiring benefits that must be offered, and private/fraternal/religious organizations are exempt from this bill.

This discussion regarding religious freedom in Kansas is inextricably linked to the discussion about discrimination protections for LGBT Kansans. The proponents of religious freedom bills, in their written testimony and in their responses to questions asked of them in hearings, have for five years repeatedly singled out the LGBT population in this state as justification for their legislation.

Religious freedom has robust protections in Kansas. Our constitutional protection is among the strongest in the nation. HB2203 codified those protections in a very thorough and complete way. One part of Kansas law that has been missing from these conversations is the Kansas Act Against Discrimination (KAAD).

Currently, private businesses may not refuse service to an individual based on their religious beliefs. Businesses with more than four employees are not be able to deny or terminate employment based on a worker's choice of religious affiliation. A landlord with more than three rental units is not be able to deny housing to or evict a tenant because of their faith.

These exemptions are already written into Kansas law.

We believe HB2323 strengthens some of those protections by drawing on language currently in Title VII of the US Civil Rights Act and related EEOC regulations. There are currently no regulatory or statutory provisions in

Kansas that define “religious accommodation” in the workplace. We believe that adding such language to current statute further strengthens protections of religious faith and practice.

There are currently 26 states, plus Washington DC, that have some level of protection against discrimination based on sexual orientation. There are more than 200 towns, cities and counties that ban sexual orientation discrimination.

Well over 90% of Fortune 500 companies ban discrimination against their LGBT employees. Even before last year’s Supreme Court ruling on marriage equality, most large corporations were providing benefits to their employees in same-sex relationships. Businesses that create jobs understand the value of treating everyone fairly.

The LGBT population in the United States is estimated to be between four and six percent of the population, depending on the state. Here in Kansas, estimates place the LGBT population at slightly more than 4.5%, or approximately 150,000 Kansans.

In October of 2013, the National Conference of State Legislators published a summary report about homeless and runaway youth. Their report cites evidence that one in seven children between the ages of 10 and 17 will run away, and that at any given time, there are 1.3 million children living on the streets. These children are at a higher risk for physical abuse, sexual exploitation, mental health disabilities, substance abuse, and death.

The NCSL report estimates 5,000 unaccompanied youth die each year as a result of assault, illness, or suicide. 45% report being physically abused, and 17% reported being forced into unwanted sexual activity. 75% have or will drop out of school.

The National District Attorneys Association reports that 1 of every 3 homeless teens will be lured toward prostitution within 48 hours of leaving home, with the average age for this kind of human trafficking is 12 years old. 300,000 children are trafficked in this country every year.

Despite the relatively low percentage of LGBT individuals, the NCSL reports the LGBT population among runaway teens is nearly 40% of all runaway, homeless youth. This population is at greater risk for being forced into prostitution than their heterosexual peers. Nearly 60% of LGBT homeless youth have been sexually exploited, compared to a third of heterosexual youth.

Also in 2013, this body passed a comprehensive bill to fight human trafficking in Kansas. As part of that legislation, KDHE was directed to license and regulate “safe houses” for the victims of human trafficking. This is part of a growing national approach to treating those forced into prostitution as victims rather than criminals.

In early January of 2014, KDHE presented their proposed rules and regulations to the legislature. During the hearing, two members of this body objected to a specific KDHE licensing requirement for safe houses: the inclusion of sexual orientation in the non-discrimination clause required of each taxpayer funded safe house. They claimed two reasons for their objections: first, “sexual orientation” is not a protected class in the Kansas Act Against Discrimination, and second, some tax payer funded safe house operators might object to the “lifestyle choice” of the victims.

The very children our human trafficking statute was designed to protect are those children most at risk of being denied services and turned away from their refuge of last resort.

This form of state-sanctioned discrimination is repugnant and offensive. If for no other reason, the Kansas Act Against Discrimination should be amended to include sexual orientation and gender identity. Taxpayer funds should never be used to deny services to some of the most abused and vulnerable children in our state.

Obviously, it is not just LGBT children who are subject to discrimination. LGBT adults are routinely harassed, fired, evicted, or denied services or fair treatment based on their actual or perceived sexual orientation. Every month, the Equality Kansas office hears from at least one, often two or three, Kansans who have been fired, evicted, or denied service based on their sexual orientation or gender identity. They have little to no recourse

Some of those services are being denied to us by our own state government. Recent events involving the Department for Children and Families clearly show a pattern of anti-LGBT discrimination by state employees and officials. Children in the process of being adopted have been snatched from the homes of gay and lesbian parents, and placed into highly questionable environments. Court documents from one case show a concerted effort by DCF, relying in part on fabricated evidence, to remove a child from a lesbian couple's home and place the child in the home of a family that did not want any more foster children. Another recent case in the news involves a child, raised from birth by a lesbian couple, who was abruptly removed and placed in a crowded home with at least 14 other children. The heterosexual foster parents in that home now face charges of aggravated battery and child abuse.

At least thirteen attorneys have written to the legislature with allegations of discriminatory behavior on the part of state officials, and have asked for an audit of DCF based on those claims. Just yesterday, those requests were brushed aside amid statements that we are somehow looking for "special rights."

Some key points that opponents to nondiscrimination laws often bring up:

Sexual orientation laws are special rights: The concept of "special rights" is legally meaningless.

Nondiscrimination laws simply prevent discrimination for everyone based on certain characteristics. In this case, everyone has a sexual orientation and this bill would protect everyone based on that characteristic.

Sexual orientation is a choice that shouldn't be protected: First, we currently protect people from discrimination based on other things that are a choice, such as religion. Secondly, courts across the country have ruled that sexual orientation is an immutable. We clearly see more and more states, cities, and municipalities recognizing that the burden of unfair treatment has been met and that it is the right thing to do to protect people from discrimination based on sexual orientation.

Gay and Lesbian individuals are trying to equate sexual orientation with race: Racism and anti-gay bias are very different. The history of treatment of people of color is different from that of gay and lesbian individuals, but it does not mean that one group is "more deserving" of not being discriminated against than another. There are many people of color who are also gay and lesbian who would benefit from this nondiscrimination law.

As taxpaying citizens of the state of Kansas, we just want to be treated with the same fairness as all other citizens. That this desire is characterized as something "special" is a sad and tragic indictment of the political environment in which we live.