

January 14, 2016
Before the House Judiciary Committee
Testimony on HB 2323
Opponent

Chairman Barker, Vice-Chair Macheers, and Ranking Minority Carmichael. I appreciate the opportunity to present testimony on this bill.

This bill basically amends the entire Kansas Act Against Discrimination.

I am appearing today as a strong opponent of the proposed bill. I have in the past testified and opposed the concept being promoted by this bill. The concept has appeared numerous times in past bills and was rejected on all those occasions by the legislature. The ideological basis for this bill is the mainstreaming of homosexual behavior and associated aberrant behaviors. The truest indication of the will of the people of Kansas on this issue was the overwhelming vote in favor of the Kansas Constitutional Amendment to ban same sex marriage. This behavior is considered immoral and repugnant by a large percentage of Kansans. The strongly held beliefs and moral compass of such a huge portion of the Kansas population is no small thing. Those beliefs cannot coexist with the intent of this bill. This addition to the statute is not just an addition to law but becomes a nullification of a whole body of law currently based on the rights we are supposed to have under the first amendment to the Constitution. Freedom of speech is gone, freedom of religion is gone and freedom of thought will be gone and our thoughts will be interpreted by the accuser. We have seen in other places that the natural extension of this type of law is to force people to not only give up their personal beliefs but to show enthusiasm for the contrary belief or face huge fines and incarceration.

The current Kansas act protects against discrimination by reason of race, religion, color, sex, disability, national origin, age or ancestry. This bill adds two new categories to the classes protected: sexual orientation or gender identity. Page 5, lines 27-29 states "sexual orientation" means "male or female heterosexuality, homosexuality or bisexuality by indication, practice, or expression."

As an attorney I find the poor wording of this bill to be lacking the objective definitions for it to even be workable. What is actual homosexuality? What is perceived homosexuality? Whose perception? How do you define perception? What is bisexuality by inclination? How does that translate into an actionable lawsuit if you can't know the mind of the claimant. Why is heterosexuality even included?

“Gender identity” means “having or expressing a self image or identity not traditionally associated with one’s gender”. What is self image? The bill allows employees to set a reasonable dress or grooming standards at work subject to the provision of federal, state, or local laws. The new definitions are poorly written and purposely vague, thus economic development for attorneys.

The most troubling part of this bill is that it opens up the classes of protected individuals so widely that it would destroy our Kansas Act Against Discrimination. The definition of “sexual orientation” includes everyone in Kansas as everyone is heterosexual, homosexual, or bisexual. If everyone is in a protected class, we fail to protect those discriminated against due to race or other classes. An employer could refuse to hire a Latino or another minority, and then point out that they have hired someone else from a protected class, such as a heterosexual.

The civil rights commission would also have to prepare new material regarding these two new classes under KSA44-1004. The commission has to work with the State Department of Education to produce a comprehensive educational program designed for the public schools to eliminate prejudice. Also new publications would be done on these classes. Additional investigators would have to be hired, as a number of complaints will no doubt increase. The fiscal impact will be great. All bureaucratic projects grow multiple times beyond their intent.

I’m willing to stand for questions, now or later on this bill.

Respectfully Submitted,

Rep. Jan Pauls