

Stephanie Byers Written Only Opponent Testimony to SB 180

“...Helmer’s comments about sharing a restroom with a transgender colleague are an apparent reference to Rep. Stephanie Byers, a Wichita Democrat and the state’s first transgender legislator.

“Now, personally I do not appreciate the huge transgender female who is now in our restrooms in the Capitol,” Helmer wrote. “It is quite uncomfortable. I have asked the men if they would like a woman in their restroom and they freaked out. Just to make my point — I went into their restroom one day. They were all standing in a circle talking but they all in unison started screaming like girls ‘Cheryl – you’re in the men’s restroom!’ It was quite apparent by their bright red faces that they were extremely embarrassed that I had entered ‘their territory’.”

<https://kansasreflector.com/2022/04/25/kansas-republican-complains-about-sharing-statehouse-restroom-with-transgender-female/>

This was my real life experience during the final part of the ’22 legislative session. I gave 14 interviews, most of them national, during the following week. Even now, if I give an interview, this incident is brought up and often referenced letting me relive this trauma over and over.

If SB 180 were to pass, it would create danger for women like me. I would be relegated to being male, in every possible public accommodation due to the language in this bill. In the case of restrooms, I would be forced to use the men’s room. I, like many women like me, have breasts, a vagina and no testes. Why would we even consider a bill that would intentionally place people in places of danger? If I were to be sexually assaulted by a man would that be considered a rape or would it be reduced to sexual battery, since the crime would technically be one of same sex, which is only a misdemeanor in Kansas? The statistics show that Transgender people are subjected to violence at FOUR TIMES the rate as the general public. If they are a trans person of color, that rate is even higher, if they, like me, are a trans woman of color, the rate climbs again.

If SB 180 were to pass, what happens to those with the karyotypes of X and incomplete X resembling a Y or XXY? Commonly known as Turner’s Syndrome and Klinefelter’s Syndrome. How would these individuals be classified? Rarely do those with Turner’s possess functioning Ova and are incapable of creating a child without outside help. Many people with Klinefelter’s possess ovatestes... How would they be classified. While the bill says the determination of sex would be the same as the sex determined “at birth”, that determination is typically made by inspection of anatomy. What happens if the persons hormonal or karyotype is different than their visible anatomy? How are they classified?

While this bill purports to help create a safer environment for women – the majority of whom have no difficulty being in the same space as a trans person of the same gender – why not legislate the availability of a single occupant facility for those that are “quite uncomfortable” possibly being in the same space as someone whose known identity may be different than their sex assigned at birth?

This bill and the one heard in the House Education committee on Monday, as well as the one heard in this committee yesterday are simply the latest attempts to erase the 14000+ Kansas citizens who are transgender.

The group that first proposed this legislation – Independent Women’s Voices, maybe linked to Kansas as it was first funded via the KOCH brothers, but is not based in Kansas and certainly doesn’t reflect Kansas values. Please stand up for actual Kansans and reject this bill. Don’t create a law that does the opposite of “Do No Harm”.

According to the American Bar Association: “Expression of LGBT Identity Is Constitutionally Protected Speech

For LGBT people in particular, speech and expressive conduct are important to their ability to affirm their identities, exercise autonomy, and participate equally and with dignity in society. Courts recognize that speech or expression that discloses a person’s sexual orientation or gender identity, sometimes referred to as “coming out speech,” is a profoundly valuable viewpoint entitled to First Amendment protections. People may be more familiar with protections granted to “coming out speech” related to sexual orientation than gender identity. For example, courts have held that coming out as LGB to an employer is speech, and similarly that students’ desire to engage in conduct that reveals their sexual orientation is entitled to protection. As far back as 1974, for example, in *Gay Students Org. of U. of New Hampshire v. Bonner*, 367 F. Supp. 1088 (D.N.H. 1974), a federal court in New Hampshire granted protection to a gay student group on the theory that gay students coming together for social events constituted expressive conduct and association protected under the First Amendment.

Transgender people are entitled to the same protections. Measures that target a transgender person’s disclosure of their transgender status (one’s right to state “I am trans”) for adverse treatment are content-based restrictions on speech. Further, a person’s right to define and express their gender through their appearance (for example, the right of both a transgender or cisgender women share to wear a dress or a suit and express themselves in accordance with their identity) is protected free expression. Courts increasingly have acknowledged the First Amendment principles at stake with respect to policies denying transgender people the ability to live openly in accordance with their gender identities or chilling their protected speech and expression.”

It seems very clear that if this bill were to pass it would set itself up to be a violation of the first amendment.

Please reject this legislation,

Stephanie Byers

She/Her

Former member of the Kansas House of Representatives, 86th District