

MEMORANDUM

To: Kansas Senate Judiciary Committee
The Honorable Tim Owens
From: Pedro L. Irigonegaray
Counsel, Kansas Equality Coalition
Date: February 8, 2011
Re: Senate Bill No. 56

Section 68 of Chapter 136 of the 2010 Session Laws of Kansas, which amended K.S.A. 21-3506 must be amended. Section 68(a)(1) states that criminal sodomy is "sodomy between persons who are 16 or more years of age and members of the same sex."

In *Lawrence v. Texas*, 539 U.S. 558, the United States Supreme Court determined that criminalizing same-sex sodomy was a violation of the due process and equal protection provisions of the United States Constitution.

Lesbians and gay men, as a matter of law, are entitled the same fundamental rights to privacy in their sexual lives with another adult as heterosexuals. Today in Kansas, our sodomy law illegally permits, allows and at times encourages, wholesale discrimination against lesbian, gay, bisexual and transgendered people.

In America today, lesbian, gay, bisexual and transgendered persons can no longer be considered criminals because they love others of the same sex. Moral grounds alone may not be used as a basis to deny people liberty or equal protection under the laws.

Governor Sam Brownback's Executive Order 11-01 state in part: "...the growth of liberty... for the citizens of Kansas ... are major priorities." "[A] new common sense approach to the task of governing..." "[U]nreasonable, unduly burdensome, duplicative, onerous and conflicting laws, regulations and other governing instruments are detrimental to the economic well-being of Kansas; hinder the growth of liberty and opportunities for Kansans... and defy a common sense approach to governance." "[T]here currently exists in Kansas certain laws, regulations, and other governing instruments that meet these criteria and should therefore be immediately repealed." I applaud our Governor's effort. It is clear by his Executive Order that he would suggest our amendment.

There is no legitimate reason to deny our request for an amendment, only bigotry, ignorance, insecurities, a complete disregard for justice and the rights of others, or the hate offered by the Rev. Phelps and those that follow him, could result in a no vote.

We all know that gay children are bullied, abused and mistreated. We know that adult gay persons are discriminated for no other reason than their sexual orientation. Only your willful ignorance can turn a blind eye to these problems and our United States Supreme Court.

As legislators, you each took an oath to protect, defend, and obey our Constitution; that oath demands a "yes" vote on our proposed amendment.

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The power entrusted to you must be used wisely. I know what it is like to live in a nation where the rule of law was ignored by those responsible to create it and by those entrusted with its enforcement.

As counsel for Kansas Equality Coalition (KEC), I represent many Lesbian, Gay, bisexual and Transgendered people. They are our mothers, fathers, brothers, sisters, friends and neighbors and like me, many heterosexual men and women who stand together with our gay and transgendered population in an effort to ensure that the principle of equal protection of the laws for all Kansans become a reality.

If you vote no, I respectfully request that on the record you state the reason or reasons for your vote, please express clearly each fact you rely on to deny your fellow citizens equal protection. In particular please address the issue of why you believe you have a right as a State Legislator to ignore the rule of law from the United States Supreme Court.

Not to oppose bigotry is to endorse it.