



## *End discrimination based on sexual orientation and gender identity*

Statement of Thomas Witt  
Executive Director, Equality Kansas  
In Opposition to SB 208  
Senate Committee on Education  
February 23, 2021

Good afternoon Madame. Chairman and members of the committee.

I am Thomas Witt, Executive Director of Equality Kansas, which works to eliminate discrimination based on sexual orientation and gender identity. I am here today to speak in opposition to SB 208, and I thank you for the opportunity to do so.

I have appeared before this committee and its House equivalents many times over the past sixteen years, almost always to talk about improving bullying protection and prevention in our public schools. I'm here today to talk about a different kind of bullying – this time, bullying in the form of legislation targeting kids in public schools.

In the past five years – essentially the time since the United States Supreme Court decided the Obergefell same-sex marriage case – there have been ten bills or resolutions introduced that specifically target transgender and gender non-conforming students.

Ten anti-transgender youth bills in five years.

In 2016, we saw the first two so-called “bathroom bills,” which would have set \$2500 bounties on any gender non-conforming student caught using the “wrong” bathroom. School districts would have been required to pay that amount to any other student who might witness a transgender child in a bathroom.

Also in 2016, on Sine Die no less, the Senate passed a resolution attacking transgender kids and condemning the Obama administration for doing what it could to protect this vulnerable population from the twin scourges of discrimination and bullying.

In 2017, two more “bathroom bills” were introduced. The proponents baselessly claimed these bills were a “compromise,” as the \$2500 bounty was replaced with an unspecified bounty to be set by the Kansas Attorney General. During 2017’s veto session, a move was made on the House floor to amend the bathroom-bounty language onto that year’s school finance bill; the amendment failed on a highly lopsided voice vote after four members of the majority party’s leadership spoke out against it.

Last year, in 2020, then-Representative Michael Capps introduced a narrower version of the bill before you today.

This year so far, we have seen four more bills targeting children. SB 208, an identical version in the House, and House and Senate versions of a bill that would deny even the simplest, reversible forms of affirmative health care to transgender and gender non-conforming youth.

While I'd like to say that before 2016 we didn't face legislative animus towards the LGBTQ community, the opposite is true. Before the US Supreme Court's 2015 marriage ruling, we faced years of discriminatory, punitive legislation.

I've been lobbying and advocating in this building for the LGBTQ community since the 2005 session. You all know what happened that year with the proposal to ban same-sex marriage in the Kansas constitution. In that same year, then-Attorney General Phill Kline publicly stated that Kansas municipalities could legally establish domestic partnership registries. Two years later, as we were working on doing just that, a bill was introduced to ban municipal registries. It died after multiple hearings and a vote on the House floor.

From 2011 through 2014, we faced a number of odious so-called religious "freedom" bills. The 2011/2012 versions would have undermined constitutional home rule by allowing municipalities to extend their local non-discrimination ordinances while declaring such ordinances weren't a "compelling government interest." In place of outright preemption, anyone objecting to a local non-discrimination ordinance was given a cause of action to sue local governments for damages, *even if the ordinance provisions were never enforced*. The 2014 bill, HB 2453, went even further by granting government and private employees the right to refuse service to LGBT Kansans, *even if their employer directed them to provide service*. Even then-Senate President Wagle agreed the bill, passed by the House, was discriminatory and would not advance.

2015 and 2016 saw the introduction and passage of the so-called "campus religious freedom" bill, that allows campus groups funded by mandatory student fees to exclude the very students who are compelled to pay for those groups. In 2018, it was the passage of the adoption discrimination act, which allows private adoption agencies to take taxpayer money for the provision of taxpayer services, and deny those services to LGBT families. In 2019, we saw the introduction of bills that would have declared our marriages to be "parodies" and "shams."

Meanwhile, since 2006, Equality Kansas has been advocating for stronger bullying prevention legislation. As I mentioned, I have appeared before this committee and its House equivalents repeatedly over the years. While I take at face-value the desire by many of you to improve bullying prevention in our public schools, for one reason or another we can't ever seem to make any progress.

This brings me back to SB 208. Contrary to its *stated* purpose, this bill isn't about who can run the fastest 100-yard dash. It's not about who can shoot the best baskets. It has nothing to do with who can best serve the volleyball, swim some laps, or hit a baseball. Given the history of anti-trans youth bills in this body, it is clear to us that the proponents just don't like LGBTQ people. Its also clear to us that, for the past five years, the proponents have chosen to bully the most vulnerable of our public school students: Transgender and gender non-conforming kids.

This bill – and the other nine like it – only serve to isolate and target vulnerable kids. Enacting the provisions of SB 208 is the equivalent of taping a "KICK ME" note to the back of every transgender student in Kansas. You will not be protecting anyone with this legislation. Instead, you will be opening the door to more bullying, more harassment, and more self-harm.

As much as I hate to say it, I must: Stop the bullying. Five years of targeting these kids is enough. It's time for the Kansas legislature pick on someone their own size.

Thank you for your time and attention. I'm happy to stand for questions at the appropriate time.