

Tennessee lawmakers push “indecent exposure” bill to criminalize transgender people

Bill is one of six anti-LGBTQ measures being pushed by lawmakers that LGBTQ advocates call the “slate of hate”

By John Riley on March 7, 2019

Tennessee lawmakers are moving forward with several anti-LGBTQ bills this session, including one bill that could see transgender people charged with “indecent exposure” if they use facilities not designated for their assigned sex at birth.

The bill, whose respective House and Senate versions were sponsored by Rep. John Ragan (R-Oak Ridge) and Sen. Mark Pody (R-Lebanon), would punish transgender people who use a restroom matching their gender identity with the same penalties faced by people who intentionally expose themselves, masturbate, or have sex in public places.

The bill also contains language stating that “a medical, psychiatric, or psychological diagnosis of gender dysphoria, gender confusion, or similar conditions, in the absence of untreated mental conditions, such as schizophrenia, will not serve as a defense to the offense of indecent exposure.”

Under Tennessee law, indecent exposure is treated as a Class B misdemeanor, punishable by a fine of \$500, unless the victim is under 13, in which case it's a Class A misdemeanor, which is punishable by a \$1,500 fine and no more than 11 months and 29 days in jail for the first two offenses. If a defendant has two or more prior convictions, it is a Class E felony, which is punished with a \$3,000 fine and up to 1-6 years in prison.

Because the law is so broadly written, that means that a transgender person who uses a restroom or locker room that could *potentially* be accessed by children could be opening himself or herself to serious charges.

Ragan told Nashville's N7ews Channel 5 earlier this month that he had the safety of his two young granddaughters in mind when he filed the bill.

“This bill is about making sure that it is clear where certain behaviors are appropriate and others are not,” he said. “The expectation is if you are in a restroom that is designated for your sex, you have an expectation of certain conditions.”

Ragan claimed the bill doesn't target transgender people, just prevents them from using their gender dysphoria as an excuse to be in the bathroom that doesn't match the gender on their birth certificate.

But Chris Sanders, the executive director of the Tennessee Equality Project, said the problem with the bill is that under state law, transgender individuals can't change the sex on their birth certificate, meaning that even if they undergo gender confirmation surgery, they are still considered to be the sex they were assigned at birth — and thus, subject to prosecution should the law pass.

“This bill is really a way of putting in a little bit of language that's very damaging to the transgender community,” said Sanders. “It's really about criminalizing transgender people in certain kinds of public

places.”

The American Civil Liberties Union and the ACLU of Tennessee also balked at the bill, pointing out that because it doesn't include any age definition, the proposed law could essentially criminalize transgender children if they do something as simple as change clothes for gym class.

“Transgender people in Tennessee should not fear criminal prosecution just for using the restroom,” said Heidi Weinberg, the executive director of the ACLU of Tennessee. “This mean-spirited law won't make anyone safer and may in fact make it more likely that transgender people will face harassment and discrimination.”

The Tennessee Equality Project has dubbed the bill, along with five others targeting the LGBTQ community, as part of the “slate of hate.”

Another bill that is part of the slate seeks to stop state and local governments from taking “discriminatory action against a business based on the policies of the business,” including its health insurance, family leave, or nondiscrimination policies. While sponsors of the bill claim it would be beneficial for companies with pro-LGBTQ policies that relocate to conservative areas in the state, its intent is largely to prevent companies with anti-LGBTQ policies from being forced to comply with local ordinances prohibiting discrimination. Such ordinances exist in Davidson County and the cities of Nashville, Knoxville, Chattanooga, and Memphis.

Four other bills in the “slate of hate” include the Natural Marriage Defense Act, a bill introduced yearly that seeks to undermine the Supreme Court's 2015 decision legalizing marriage equality, one that would require the state's attorney general to defend policies barring transgender students in schools from using the appropriate bathrooms, and two that protect child placement agencies who refuse to place children with prospective parents based on the agency's religious or moral beliefs.

Several religious leaders recently signed their names to [a statement](#) opposing all six bills, stating: “As leaders of faith communities we oppose these bills in the Tennessee General Assembly. They promote discrimination rather than justice and demean the worth of LGBTQ people in our state. We call on people of good will to join us in speaking out for basic fairness.”