

**Before the House Civil Justice Committee  
Proponent Testimony Regarding House Bill 369**

**Keith P. McNeil**

Chair Hambley, Vice Chair Patton, Ranking Minority Member Brown, and the members of the House Civil Justice Committee; my name is Keith P. McNeil. I thank you for allowing me this opportunity to share my reasons for urging the passage of House Bill 369. The question before the General Assembly is whether men and women with a different sexual orientation, identity or expression should be treated the same as all others in their opportunities to secure employment, housing, credit, and participate in commerce and services provided in our state's places of public accommodation.

Before retiring on December 29, 2017, I had the great honor of working for the Ohio Civil Rights Commission for thirty-seven years. I was the Director of Operations/Regional Counsel for the past 17 years, and oversaw the investigations of tens of thousands of civil rights cases. In the past year, I have continued to stay close to civil rights issues as a Board member of Equality Ohio.

Since 1959, the state of Ohio has seen the value and benefit of protecting those classes of people who were historically the object of discriminatory treatment. Over the course of time it became apparent that the original list of race, sex, national origin, ancestry and religion needed to be expanded. Age was added first as a protected class, then disability, familial status and most recently military status. Each was added due to a real need for protection and the right to pursue remedies through the administrative process or court system. During my 37 years with the Ohio Civil Rights Commission, I routinely received inquiries from members of the Lesbian, Gay, Bi-sexual, Transgender (LGBT) community seeking assistance from discriminatory treatment. Initially, no recourse existed, and no referral of assistance could be made. It became abundantly clear that based on the number of calls received and the severity of the issues alleged, sexual orientation and gender identity needed to be added as protected classes under Ohio's laws against discrimination.

Yet in 2019, the status remains the same; as neither the federal nor Ohio statutory law includes sexual orientation or gender identity as a protected class. The vacuum of statutory protection has resulted in a patchwork of protections for the LGBT community. Most Fortune 500 employers have included the LGBT community in their non-discriminatory policies. A growing number of cities in Ohio have passed ordinances prohibiting discrimination based on a person's sexual orientation or gender identity. Governor Mike DeWine has issued an executive order mandating that no employee of any cabinet, agency, board or commission shall discriminate against another employee based on sexual orientation or gender expression. These protections are important, not only for the legal protections they provide, but even more so for their message of acceptance and inclusion. Unfortunately, none provide the protection that is provided to other protected classes through Ohio's laws against discrimination. An employer's assurance of protection is valuable, but all the power remains in the hands of the employer. City ordinances are often written as criminal statutes with violations resulting in penalties. This requires a burden of proof that is very difficult to reach, and a remedy that pales in comparison to the remedy of employment and monetary compensation that accompanies a violation of the state's law against discrimination. In effect, the protections that exist are appreciated and important, but inadequate and confusing. The passage of the Ohio Fairness Act will bring the experienced and impartial enforcement of the Ohio Civil Rights Commission to the LGBT Community. The passage of the Ohio fairness Act will provide remedies via the administrative process or the court system that mirrors the benefits afforded to other protected classes. The passage of the Ohio Fairness Act will eliminate the confusion of rights existing in the current patchwork of LGBT rights, and provide clear guidance for employers, housing providers and those who operate places of public accommodations.

Ohio has a long history of being a leader in the battle for civil rights. The abolitionist movement drew much of its strength from the words of Harriet Beecher Stowe, the fury of John Brown, and the bravery of the conductors of the Underground Railroad. Oberlin College is the oldest co-educational college in the United States. The battle for voting rights in our nation during the 60's was bolstered by Ohio freedom riders; young people who traveled from our state to the south to do the right thing, and to stand up for freedom. And in 2015, it was an Ohio citizen, James Obergefell, who served as the lead plaintiff in the legal battle to legalize same sex marriage in the United States. Mr. Obergefell's bravery in challenging the status quo resulted in the most basic

right to marry the person you love, but the right to employment and housing remains in jeopardy for a gay or lesbian couple residing in Ohio. It is now time to pass the Ohio Fairness Act to ensure that the same sex couple married on Saturday need not fear a termination of their job on Monday.

The people of Ohio are supportive of legislation that would protect gays and lesbians from employment discrimination. The 2013 Ohio Values Survey indicates that 68% of Ohio voters are in favor of protection. This support included 61% of republicans, 67% of independents and 74% of democrats. The support also transcended religious groups as support ranged from 56% of evangelicals to 79% support of religiously unaffiliated voters.

Currently, the Ohio Civil Rights Commission routinely takes charges from individuals believing they were discriminated against because of their gender identity or sexual orientation. The individuals are advised that if the facts establish gender stereotyping or same sex harassment, then the agency can help, but that if the treatment is a result of sexual orientation, then the case will be dismissed or forwarded to the Equal Employment Opportunity Commission. Many of the clients didn't understand when the agency could help: they merely understood they had been treated differently, suffered a harm, and needed help. The harms suffered included every imaginable issue: from failure to hire to discipline to termination. The charges were filed by gay, lesbian, bi-sexual and transgender persons. As no statutory protection existed, it is impossible to know the true number of individuals who would file charges with the agency if the law protected them.

Ultimately, HB 369, the Ohio Fairness Act is needed to provide protections to individuals who have been subjected to differential treatment for no reason other than their sexual orientation or gender identity. The right to hold a job, secure an apartment, or buy a pizza should not hinge on the discriminatory whims of the employer, housing provider, or service provider. Discrimination is hurtful even if no tangible harm is associated with the act, but becomes devastating when combined with a loss of job or housing. The business community by and large supports this legislation. The Chamber of Commerce supports this legislation. Most voters support this legislation. More importantly, this legislation will positively affect your family, friends, and neighbors because the LGBT community is a part of every corner of this society. Eliminating discrimination is always the right thing to do.

Thank you for considering the passage of the Ohio Fairness Act; a legislation whose time has come.