



**SENATE GOVERNMENT OVERSIGHT AND REFORM COMMITTEE
INTERESTED PARTY TESTIMONY ON SB 49**

Tuesday, April 2, 2019

Chairman Coley, Vice Chair Huffman, Ranking Member Craig and members of the Senate Government Oversight and Reform Committee, thank you for the opportunity to testify as an interested party of Senate Bill 49 today.

My name is Kim Welter, and I am the Director of Finance & Policy for Equality Ohio. Equality Ohio is the statewide advocacy organization for lesbian, gay, bisexual and transgender Ohioans.

Last General Assembly when this legislation was introduced, it was suggested to the sponsor, Senator Eklund, that this bill, having to do with strip searches, needed to take into account the safety and dignity of transgender individuals. I want to thank the Senator for reaching out and actively engaging in conversation to remove the requirement around same-gender searches for transgender individuals, which would have resulted in transgender women being searched by male officers. We appreciate that the language now allows for transgender individuals to have a say in who they feel safest with to conduct a strip search.

Standards adopted in 2012 to implement the Prison Rape Elimination Act, known as the "PREA Standards," include several provisions that direct agencies to pay particular attention to protecting LGBTQ people and people who do not fit gender stereotypes, as well as intersex people. This includes consideration of a person's LGBTQ identity in determining limitations on cross-gender searches. The PREA Standards are legally binding on federal prisons, and state prison systems can face penalties on their federal funding or lose accreditation if they are found not to be in compliance.

We appreciate that if this legislation is passed there is now language allowing a transgender person's own perception of safety to factor into the determination of the gender of the person conducting the search.

I would like to point out, however, that the current language puts the onus of revealing their gender identity on the transgender person. Imagine you are transgender, not familiar with transgender advocacy, and being forced to undergo a strip search. To require the transgender person—who is not legally protected from discrimination in the State of Ohio—to know that they must voluntarily out themselves in this high stress moment is problematic. The likelihood that the transgender person will know about their rights in this situation is very small. We would ask that, before a strip search is performed that *everyone* regardless of their gender identity be asked for the gender of the person they would feel safest with performing the search. Officers should also not have the option to then refuse to search a transgender person. Training is available when needed. The details can be worked out in policy, and we stand ready to assist law enforcement in the implementation of policy that accomplishes this.

Transition is a deeply personal and unique experience for each transgender person. Not every transgender person undergoes hormone therapy or surgery. PREA specifically disallows a search to determine a person's gender, a practice we continue to hear complaints about from transgender individuals. Due to the non-uniformity of experience for each transgender person, no set rule should be established regarding same-gender searches. Transgender people—in



fact all people—should be asked who they feel safest with performing a strip search. There are a whole host of reasons, and those reasons really don't matter, that transgender and cisgender people alike would rather not have a person of the same gender as the gender marker assigned to the individual at birth conduct a required strip search. It is important for every individual to be able to state a search preference if they have a reason to feel particularly vulnerable during a strip search, not just transgender people. Cisgender, or non-transgender individuals, may have experienced various traumas that might cause them to feel strongly about the gender of the person conducting a strip search. What matters is that the person states who they feel safest.

In closing, we again appreciate the changes that have been made thus far to account for transgender individuals to have a say in who they feel most safe with to conduct a strip search. We respectfully ask that the language be modified so that, before a strip search is conducted, *all* people, regardless of their gender identity or expression, be asked for the gender of the person they would feel safest with performing the search.

Thank you for your time today. I am here to answer questions if you have any.