



Testimony of Alana Jochum, Esq.
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9am, Room 116

Chair Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee,

Thank you for the opportunity to present additional proponent testimony today in support of Sub HB 369, the Ohio Fairness Act, and to specifically address the substitute bill offered today. Sub HB 369, which has been offered today. My name is Alana Jochum and I am the Executive Director of Equality Ohio and a Board member of Ohio Business Competes, the group of over 1,000 organizations, nonprofits, unions, and businesses of all sizes across Ohio who have come together to advocate for LGBTQ Ohioans to be treated as equals under the law.

When we were last in this hearing room in February, I never would have imagined supporting any change to the Ohio Fairness Act, let alone one that changed the 100+ page bill that we have been working on for so many years to a change in the law that amounts to a total of 3 lines.

But a lot has happened since then. In June, the U.S. Supreme Court held, in *Bostock v. Clayton County*, that Title VII sex discrimination includes discrimination against individuals based on their sexual orientation and gender identity/expression. The decision, written by President Trump's first appointee to the Court, Justice Neil Gorsuch, was clear and unwavering: "*An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.*"

It is because of the clarity and explicitness of this decision—agreed to by a 6 member majority of the Court—that my colleagues and I have come to support the approach taken in Substitute House Bill 369. While in an ideal world, we would prefer to pass the Ohio Fairness Act in its original form due to the countless hours of painstaking work we have put into it in recent years, the Substitute Bill is one that provides the same practical legal outcome and is based in a legal approach supported by the highest court in our land.

This approach also gives you, the Ohio Legislature, the chance to lead on this issue, rather than wait for these same protections to filter through the courts, which they are inevitably going to do. The decision in the *Bostock* case is a compelling precedent for lower courts, and it is only a matter of time before state and local courts interpret prohibitions on sex discrimination the same



way. By passing Sub HB 369, you can bring clarity and uniformity to Ohio law now—which the business community is asking for; you can give our state a competitive advantage over others while these protections percolate through other state court systems; and you can show your LGBTQ constituents that you care about them and their families by speeding that process along.

I also want to take a moment to set the record straight on what this Substitute Bill does and does not do. Today, you have heard a series of fear-laden, inaccurate statements about the Ohio Fairness Act meant to scare and confuse. I have attached a document to my written testimony that our team put together that addresses many of the opposition talking points you have heard, and I am happy to speak to anyone with individual questions.

To be clear, adding basic nondiscrimination protections for LGBTQ people in Ohio—as has been done in more than 250 cities nationwide and 22 other states—has simply not yielded any of the “parade of horrors” that opposition presents today; nor has the Supreme Court’s *Bostock* decision.

And contrary to their claims, these protections *are* needed in Ohio. I simply ask the Committee to refer to the Ohio Civil Rights Commission’s testimony on file given in February, which presented only a fraction of the types of discrimination claims they receive from the LGBTQ community across the state, as clear evidence from the agency charged with overseeing Ohio’s nondiscrimination code.

More than 1,000 businesses support the protections being added by Sub. Bill HB 369 today—and they wouldn’t offer this support if they thought it was inviting lawsuits, threatening the safety of their employees, or would add significant costs to their bottom line.

More than 200 faith leaders and organizations also support the protections being added by Sub. Bill HB 369—the opposing point of view you are hearing today is only one, shrinking perspective across diverse faithful traditions and the religious community.

I am happy to take questions of the Committee, here or individually following this hearing.



House Bill 369 (The Ohio Fairness Act): *Myths vs Facts*

Opponents to House Bill 369 (HB 369), namely, Citizens for Community Values, Ohio Christian Alliance, and Alliance Defending Freedom distribute talking points meant to confuse and scare legislators into not supporting the legislation. We want to provide you with the FACTS.

<p>MYTH: HB 369 gives LGBTQ+ people “special rights”.</p>	<p>FACT: <i>HB 369 does NOT provide LGBTQ+ people with “special rights”. HB 369 adds “sexual orientation” and “gender identity or expression” to Ohio’s existing civil rights law, giving LGBTQ+ people in Ohio THE SAME protections against discrimination as other protected classes.</i></p> <p>The protections in HB 369 for LGBTQ+ people are consistent with the holding in the recent U.S. Supreme Court decision in <i>Bostock v. Clayton County</i>. Justice Neil Gorsuch authored the opinion and recognized that “sex” includes sexual orientation and gender identity, thus making it illegal to discriminate against LGBTQ individuals.</p> <p>Despite this U.S. Supreme Court decision, the Ohio Revised Code needs to be updated to reflect this decision and apply protections in the areas of housing, public accommodations, and employment in businesses up to 15 employees.</p>
<p>MYTH: HB 369 violates religious freedoms.</p>	<p>FACT: HB 369 does NOT violate religious freedoms. Religious freedoms are protected by the First Amendment and Article 1 of Ohio’s Constitution. HB 369 maintains all religious exemptions (including the “ministerial exemption”) that currently exist in Ohio’s nondiscrimination law. Additionally, nearly 200 faith leaders and organizations have joined the Ohio Faith Coalition in support of these protections.</p>



<p>MYTH: HB 369 forbids religious institutions from upholding their religious teachings in their religious activities or church-operated schools.</p>	<p>FACT: HB 369 maintains ALL religious exemptions (including the “ministerial exemption”) that currently exist in Ohio’s nondiscrimination law.</p> <p>Religious institutions will continue to be allowed to write expectations for employee conduct and uphold religious teachings into the employment contracts that they enter with their employees.</p> <p>Specifically, the 2020 Supreme Court decision in <i>Our Lady of Guadalupe v. Morrissey-Berru</i> upheld the ministerial exemption and reinforced that it can include teachers in religious schools. Ohio law also includes a ministerial exemption in its nondiscrimination code that is unchanged by this bill.</p>
<p>MYTH: Ohio isn’t ready to pass legal protections for LGBTQ people.</p>	<p>FACT: LGBTQ nondiscrimination laws are OVERWHELMINGLY supported by the public.</p> <p>In addition to the widespread support from businesses and faith leaders and organizations in Ohio, the protections in the Ohio Fairness Act are also widely approved by Ohioans themselves. According to a recent study conducted by an independent, nonprofit organization called the Public Religion Research Institute (PRRI), over 71% of Ohioans want to see these protections passed, including majorities of every demographic group and subgroup in the state, including:</p> <ul style="list-style-type: none"> ● 81% of Democrats, 72% of Independents, and 61% of Republicans; ● 76% of Catholics, 75% of white mainline protestants, 74% of those who are religiously unaffiliated, 70% of non-white protestants, and 63% of white evangelicals; ● 79% of Ohioans ages 18-29, 74% of Ohioans ages 30-49, 70% of Ohioans ages 50-64, and 61% of Ohioans over 65



<p>MYTH: LGBTQ protections are “unprecedented and untested.”</p>	<p>FACT: 22 states and more than 250 municipalities all across the country have already passed laws protecting LGBTQ residents.</p> <p>This includes 32 Ohio localities that have passed these protections, from the “Three Cs” to mid-sized cities like Medina to small villages like Golf Manor and Gambier.</p>
<p>MYTH: Legally protecting transgender people means a man could “wake up one day” and claim to be a woman, just to be able to access women’s facilities.</p>	<p>FACT: NOTHING in HB 369 changes current law related to the use of bathrooms. In fact, the word “bathroom” or “restroom” is not referenced in the legislation at all.</p> <p>As it relates to bathrooms, current law remains, which means that anyone—transgender or not—who engages in inappropriate or illegal behavior will be arrested and held accountable for their actions.</p> <p>Transgender people have been using the facilities that match their gender identity for decades without incident and will continue to do so.</p>



<p>MYTH: HB 369 will allow men and boys into girls and women’s bathrooms and locker rooms.</p>	<p>FACT: This is NOT a bathroom bill. Transgender people will continue to use the facilities that match their gender identity, as they do today.</p> <p>Men and boys are not allowed in single gender spaces reserved for women and girls. That’s the case now and will be the case after HB 369 is passed. Transgender women and girls have always used the facilities that match their gender identity without any issue and will continue to do so.</p> <p>Harassment is illegal under Ohio law, and updating Ohio’s nondiscrimination protections keeps that in place. Anyone who goes into a restroom to harm and harass others can and should be held accountable.</p>
<p>MYTH: HB 369 will allow men and boys to play in women’s and girls’ sports and gain a competitive advantage.</p>	<p>FACT: This is another baseless claim that is NOT supported by science or reality. HB 369 does not impact youth or adult sports.</p> <p>Every sports governing body from the Ohio High School Athletic Association to the International Olympic Committee has rules in place to make sure that all sports are fair and accessible to transgender athletes. These organizations have supported transgender athletes for years with no adverse effects on competition.</p>
<p>MYTH: HB 369 will allow government agencies to remove children from parents’ custody if they refuse to affirm their child’s sexual orientation or gender identity or refuse transition related care.</p>	<p>FACT: There is NOTHING in HB 369 that impacts parental custody or rights in any way. This is simply a false claim.</p> <p>HB 369 addresses discrimination in employment, housing, and public accommodations. Ohio law that addresses family law is untouched by HB 369.</p>



<p>MYTH: Transgender legal protections would require businesses and other public places to spend money to remodel their restrooms to be gender neutral or add restrooms or other sex-segregated facilities.</p>	<p>FACT: Again, there is NOTHING in HB 369 that references bathrooms or requires remodeling or construction of new bathrooms.</p> <p>In fact, over 1,000 large and small Ohio businesses have signed onto Ohio Business Competes in support of the protections provided by HB 369.</p>
<p>MYTH: HB 369 requires doctors to provide transition-related care to transgender patients.</p>	<p>FACT: This claim is patently FALSE. Nothing in HB 369 requires any physician, or other medical professional, to perform any specific kind of medical procedure. Decisions regarding medical care and treatment will continue to be made between a patient and their physician or medical team.</p> <p>In fact, there are many hospitals and other medical organizations who are members of Ohio Business Competes, including the Cleveland Clinic, Nationwide Children’s Hospital, The Christ Hospital, OhioHealth, and Cardinal Health, among others. These institutions would not have signed on in support if HB 369 created a mandate for their physicians.</p>
<p>MYTH: There aren’t enough LGBTQ people in Ohio to warrant explicit nondiscrimination protections.</p>	<p>FACT: Ohio is home to an estimated 500,000+ LGBTQ+ adults.</p> <p>LGBTQ+ Ohioans are our neighbors, coworkers, friends, and family members, and many are facing discrimination and harassment. No one should be discriminated against just because of who they are. Everyone deserves to be treated with fairness and respect. That’s what Ohio values are all about.</p>