

In the Ohio House
Families, Aging, and Human Services Committee
Testimony in Opposition to H.B. 454
November 15, 2022

Chair Manchester, Vice Chair Cutrona, Ranking Member Denson, I am Eric Resnick of Canton, Ohio. And I want to open by being very clear with you and the record, that while I will state my position as a member of the Canton City School District Board of Education in this testimony *because* this bill makes dehumanizing and in some cases unethical demands of school personnel for the sake of treating transgender students, including my constituents, as *less than* their cisgender peers, I am representing only myself.

I want to call your attention to my first exhibit – the *Gay People’s Chronicle* news report dated May 26, 2006. Yes, I am the reporter, and I was a witness to Senator Hottinger giving what was as close as it gets to a legislator apologizing for the harm that he caused to the LGBT community as the sponsor of the 1997 so-called Defense of Marriage Act. I share this because it was quite a moment.

In a conference room in this building Hottinger told the eight lesbian and gay people visiting him, “It’s unfortunate that many people in your community felt like second class citizens because of that legislation and I apologize for that.”

Hottinger then assured them that they deserve representation and they could count on him for that.

I share that story because, like Hottinger, some of you are supporting this legislation because there’s a political payoff. But there’s also a cost. It is never acceptable for an elected official who swore an oath to the constitutions of the state of Ohio and the United States to use their power to make their fellow citizens into something second class, no matter how much animosity toward those people you may have, or the extent of your own ignorance of their personal situation.

There are those of you in here with a conscience, who, given some time, may also have to make amends for supporting this bill.

Some of you won’t. There are those in this room who have long histories of un-apologetically bashing LGBT people, and I call your attention to the highlighted sections of the January 4, 2004 *Gay People’s Chronicle* report also attached to this testimony. Some people go out of their way to abuse their power to hurt lesbian, gay, bisexual and transgender people, and they have been doing it for years.

This committee has already heard extensive testimony from medical experts that refute the “legislative findings” behind this bill, which are nonsense and insulting.

Among the things you were supposed to learn from the medical testimony you have heard includes:

“Biological sex” used herein is foreign to biology and medicine. The term was workshopped by national organizations pushing these things for the purpose of dehumanizing and othering transgender people. The correct term is *cisgender*.

The increased mental health concerns experienced by transgender youth are caused by people with agency over them constantly telling them they are beneath their cisgender peers – like this legislation does. Don’t sanctimoniously twist that statistic into a reason to deny health care or bully them further.

No doctors are doing genital reassignment surgeries on youth. None.

No gender dysphoria treatment of minors is done without the permission and cooperation of parents and guardians. None.

Puberty blockers are perfectly safe, reversible, and used by doctors to treat conditions that have nothing to do with whether or not the patient is transgender. Ironic that people have no issue with puberty blockers when they are used to treat first grade girls from getting their menstrual periods.

Unlike legislators, doctors, counselors and psychologists who treat transgender children are bound to codes of ethics, standards of care, and face discipline and loss of their license if they violate.

Can you stop pretending that what this bill is based on is anything other than fiction? As a taxpayer I want to know.

As a school board member, I am troubled that you would expect those who serve my school district in the capacity of nurses and counselors to violate their professional codes of conduct to serve someone’s animus toward a class of students.

And I am equally troubled that you want teachers and principals to jeopardize their relationships with students I represent, again to do nothing but further your animus. How well do you think those students will perform academically if the environment they are in is hostile? Do some of you even care?

Other than animus, why would the state of Ohio step in to override parents, doctors, psychiatrists, psychologists, endocrinologists and mental health professionals following the standards of care for transgender children?

The proponents of this bill want the state of Ohio to override the standards and recommendations of the American Medical Association, the American Association of Pediatrics, the Endocrine Society, the American Psychological Association and parents who love their children to push their politically motivated *hocus pocus*.

There are real lives at stake, and for those lives this is not *hocus pocus*.

Finally, don't get what I am about to say twisted. I am not equating this resolution with the Holocaust or those behind it as Nazis. Neither are apt comparisons. But it needs to be said that the Holocaust did not start with the death camps. It started with dehumanization, dispossession, othering, and convincing the population that those targeted were contemptuous and beneath their concern.

Legislation like this, no matter how laughable the merit, are dangerous, and hopefully beneath this general assembly and this state.

I am happy to take questions.

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May 26, 2006

It's all about relationships

As hundreds visit their lawmakers in a lobbying effort, there are surprises on both sides

by Eric Resnick

Columbus--"It's been a long time since many of us felt at home in Ohio," Equality Ohio director Lynne Bowman told a ballroom full of people preparing to speak with their legislators, "and we're here to change that."

Hundreds of lesbian, gay, bisexual and transgender Ohioans, allies, family members, and roughly three dozen children ranging in age from a few months to teens descended on the Statehouse May 17 for the state's largest-ever lobbying event for LGBT rights.

The event was larger than the previous LGBT lobbying efforts in 1994, 1997, and 1999 combined, and was one of the largest non-corporate legislative events of the year.

Coincidentally, it was held on the International Day Against Homophobia, commemorating the World Health Organization's 1990 removal of homosexuality from its list of mental disorders.

Bowman kicked off the event from the Governor's Ballroom of the Hyatt hotel across the street from the Statehouse. She began the morning sendoff by recalling November 2, 2004, the day voters passed the anti-marriage amendment to the Ohio constitution.

She was joined by Equality Ohio board chair Jeannette Birkhoff, Terry Penrod of the Human Rights Campaign and Equality Ohio staffer Bo Shuff.

Republican State Sen. David Goodman of Columbus and Democratic State Sen. Dale Miller of Cleveland addressed the political visionaries, as did State Rep. and Ohio Democratic Party chair Chris Redfern.

Miller introduced Ohio's first LGBT non-discrimination bill as a member of the House in April 2003 and again last year. His first legislative act after being appointed to fill a vacant Senate seat was to introduced its companion on May 16.

He was greeted with a long standing ovation before declaring it a "new day" for LGBT Ohioans.

“It’s time to stop the exploitation of LGBT people by the political right for political advancement,” said Miller. “And it’s time to begin the repeal of the marriage language in Ohio’s Constitution. It’s a disgrace that discrimination has been put into our fundamental document.”

Redfern and Goodman talked about the importance of building relationships with legislators--a message the lobbyists would hear again and again before the day ended.

The event cost \$20,000 to accomplish, according to Bowman, with half paid by its sponsors the Human Rights Campaign, the National Gay and Lesbian Task Force, the Log Cabin Republicans and the Central Ohio Stonewall Democrats. Most other costs were covered by contributions on the day of the event.

Equality Ohio sponsored seven training sessions around the state in the last month to brief participants on the issues and protocol.

Cleveland’s Fairmount Temple chartered a bus which carried people to the event.

“Today is the beginning of change in Ohio,” said Bowman, as she listed Ohio’s “gay agenda”: equal civil rights and protections, employment non-discrimination, equality in adoption and foster parenting, LGBT inclusive safe schools legislation, LGBT inclusive hate crimes protection, and the right to correct one’s birth certificate following sex reassignment.

Equality Ohio identified three bills in the legislature to be discussed with lawmakers and their staffs. These were Miller’s employment non-discrimination bills, Rep. Jimmy Stewart’s safe schools, anti-bully bill, and the defeat of Rep. Ron Hood’s anti-gay adoption and foster parenting ban.

The 485 citizen lobbyists went to lawmakers’ offices ready to share family photos, personal stories, and discuss how previous actions by the legislature have affected their lives.

The groups were organized by the 33 Ohio Senate districts. They visited their senator and the representatives of the three House districts in each Senate one.

Prior to the day-long event, only six of 132 lawmakers had declined appointments with the LGBT groups. Once it started, committee business prevented a few more from having visits. The rest got 20 to 30 minutes with legislators, their staff or both.

‘Your work doesn’t end today’

Republicans, Democrats, LGBT friends and foes alike told the citizen lobbyists that the most important thing to do to influence lawmakers is to develop relationships, and communicate often.

“Your work does not end at the end of today,” Redfern told them.

“Talk about what is personal to you,” said team leader Kevin Sullivan of Columbus. “That’s what’s going to have the most impact.”

Sullivan is an experienced lobbyist on HIV matters in Columbus and Washington.

“One time is not going to do it,” said a conservative Republican House member who asked not to be identified. “It’s a start, though.”

“There are some issues like adoption we are never going to see eye-to-eye on, but that relationship allows us to talk about things where we can.”

Legislators open lobbyists’ eyes

Some groups that visited all LGBT friendly lawmakers joked about their visits being a “love fest.” Others had it more difficult.

Judy Maruszán of Cleveland, who led a “love fest” group, said, “Even they were totally surprised at the depth of the harm to partners and families due to the loss of insurance and inheritance rights.”

“It’s the stories,” said Maruszán. “We have to keep telling our stories.”

Some legislators said surprising things.

Rep. Tom Brinkman, the Cincinnati Republican suing Miami University to stop their domestic partner benefits, told his visitors, led by Ted Jackson of Cincinnati, that he would drop the suit if the university would make it possible for unmarried heterosexuals to get the benefits, too.

Currently, the policy extends the benefits only to same-sex couples. They are similar to the ones married couples get.

In a later interview, Brinkman explained the statement further.

He said the University of Toledo is considering a plan that would cover same-sex and opposite-sex unmarried couples. He sees that as an attempt to expand health coverage, which he says there is a public interest in doing.

“It is in no way trying to mimic marriage,” said Brinkman, “and I don’t have a problem with that.”

Brinkman said the biggest supporters of his lawsuit are unmarried heterosexuals who feel excluded.

Brinkman is also a co-sponsor of the adoption ban bill, but he told the group that he would oppose the measure if it becomes a ballot initiative or constitutional amendment.

“I’d be against it,” Brinkman later clarified. “I think it should be legislation [not a constitutional amendment].”

Brinkman said he has heard of no plans to take the adoption ban to the voters.

“The people who would do that are the same people who are backing the Miami suit,” said Brinkman, “and their next project is strip clubs, not this.”

The ban’s sponsor, Ron Hood of Ashville, was defeated in the Republican primary earlier this month. Asked if any of the co-sponsors would be bringing it back next session, Brinkman said he could only speak for himself.

Advocating broader adoption reform, Brinkman said, “I could see something like [the gay adoption ban] being part of a larger bill.”

Senator Jay Hottinger and an aide met with eight lobbyists, including a couple with their four year old son in tow.

Hottinger, a Republican from Newark, was the first sponsor of “defense of marriage” legislation when he was a member of the House in 1997.

“It’s unfortunate that many in people in your community felt like second-class citizens because of that legislation and I apologize for that,” said Hottinger. “My intent was never to do any gay bashing or demagoguing. It was a states’ rights issue for me. I am a traditionalist when it comes to those things.”

Hottinger said without hesitation that he would not vote for the anti-adoption bill if it appeared in the Senate. “I would not support that bill.”

He acknowledged that LGBT people make up about ten percent of his district and said, “We might not see eye to eye on all issues, but you deserve representation, and I hope you always feel you can contact me.”

Democratic Senator Eric Kearney of Cincinnati has only been seated since December.

“Because you are new, we wanted to bring you on board with Democrats and moderate Republicans on our issues,” said John Farina of Lakewood, who led a group of nine people.

Kearney took an interest in what the legislature can do to improve the situation for people with HIV.

“My best friend in college was gay and died of AIDS,” said Kearney.

Staffer came out to visitors

An aide to a Republican House member reportedly came out to the lobbyists visiting his boss.

According to those who were there, the House member is not friendly to LGBT people and claims not to know any.

Equality Ohio lobbyists reportedly took issue with the unnamed staffer for allowing his boss to claim this.

Visits took place in senators’ Statehouse offices and in the Vern Riffe House office building across the street.

Connie Grossman of Athens told Rep. Bill Coley’s aide Mitch Alderson that she left a job at Miami University when Brinkman filed his suit.

Jamie Ryan of Columbus, who lobbied with her three young children by her side, told House Democratic Leader Joyce Beatty’s aide Molly Parsons that “When my [gay] brother is stable, I’m stable.”

Ryan, who is not gay, said protecting LGBT families reaches beyond the gay person and maybe a partner, into the lives of those who love them.

“Right now, Ohio seems really mean!” Ryan said.

Equality Toledo director Kim Welter said the group she led visited with a staffer who was a member of World Harvest Church, led by anti-gay political activist Rod Parsley.

Welter said the staffer was there the day Parsley asked his congregation to stand if they agree with him on the sinfulness of gay people.

“She hasn’t been there since,” said Welter.

Paul Schwitzgebel, who led a group from the Canton area, said Rep. Scott Oelslager’s aide was aware of the difficulties transgender Ohioans have getting accurate drivers licenses, but the Oelslager was not.

“He seemed genuinely interested in knowing more,” said Schwitzgebel.

Equality Ohio board co-chair Tom Grote noted the number of LGBT and non-LGBT clergy who came out to meet legislators, and the number of children.

“You know you’re going to win when you have kids and clergy,” he said.

Brynna Fish of Cleveland said she introduced herself to Governor Bob Taft on the Statehouse lawn.

Taft was observing an athletic exhibition promoting health, and Fish walked up to him and shook his hand.

“He said, ‘I’m here working for a healthier Ohio’,” said Fish, “and I said, ‘I’m here working for non-discrimination for lesbian, gay, bisexual and transgender people.’ ”

At that, Fish said, Taft “just looked at me and left.”

Husted wouldn't say 'gay'

The lobbying ended about 5 pm. Afterward, there was a \$50 per person reception for legislators. About 80 lobbyists and two dozen legislators attended.

It was there that Equality Ohio recognized House Speaker Jon Husted, a Republican from Kettering, for stopping any movement of the anti-gay adoption bill.

Husted told the group he was adopted himself, and opposes any attempt to deny children good homes.

However, his remarks were noticeably devoid of the word “gay” or anything related to LGBT equality.

Husted was not a co-sponsor of the “defense of marriage act” passed by the House in 2003, but he voted for it, and is not generally thought of as friendly to LGBT causes.

“We have not done a good job in the past of thanking people who do things for us,” said Bowman, “and that makes people hesitant and less comfortable stepping out.”

“It doesn't bother me that he didn't say “gay,” Bowman continued, adding that the thanks were for what Husted has done.

Bowman said that participants who filled out the event evaluation often wrote about what she called a “tribal feeling,” connecting them to the rest of the LGBT family.

“It wasn't just a rally, although rallies are important,” said Bowman.

“And it wasn't just a parade, although parades are important. And it wasn't just sending e-mails, although sending e-mails is important.”

“People who have never met a legislator are now empowered to move us forward into the future as a community,” said Bowman. “And we did it together!”

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January 9, 2004

Man and woman still can't marry

Appeals court upholds decision to deny marriage to a TG man

by Eric Resnick

Warren, Ohio--An appeals court has upheld the denial of a marriage license to a heterosexual couple because the groom-to-be is transsexual.

Writing for a three-judge panel of the Eleventh Ohio District Court of Appeals, Judge Diane V. Grendell agreed with Trumbull County Probate Judge Thomas A. Swift that to grant the marriage license to Jacob B. Nash and Erin A. Barr of Warren would violate Ohio's "clear public policy" against same-sex marriages.

Grendell cited overturned opinions, dissenting opinions, an advisory opinion and the yet-to-be-passed Ohio "defense of marriage act" to justify the decision. None of these carry any force of law in an appeals court.

The couple will either ask to have the case heard "en banc" by the entire six-judge court, or appeal directly to the Ohio Supreme Court, their attorney Randi A. Barnabee of Northfield Center said.

The 2-1 decision was rendered December 31. Administrative judge Donald R. Ford concurred with Grendell with a separate opinion. Judge Judith A. Christley objected with a dissenting opinion. Oral argument was held in the matter on October 22.

Nash and Barr made two attempts to get the license in 2002 and were twice denied by Swift.

Nash was born female. The state of Massachusetts corrected his birth certificate to show he is male upon completion of reassignment surgery.

Swift only knew Nash is transsexual because he granted Nash's name change from Pamela to Jacob in 1999.

Ohio is one of only three states that deny post-operative transsexuals the right to correct their birth certificates.

Grendell is a former Republican member of the Ohio House known for being socially conservative. She is married to current Rep. Tim Grendell, a staunch DOMA supporter who took his wife's seat when term limits prevented her from seeking re-election.

Nash and Barr argued that the probate court was wrong to hold their application to a higher standard than others seeking to marry.

During earlier hearings, it was established that Swift typically requires couples only to show a drivers license, but Nash was required to produce the corrected birth certificate. The court was already in possession of Nash's uncorrected birth certificate, which was voided and sealed by Massachusetts for the purpose of the name change.

Nash and Barr also said Swift was wrong not to grant full faith and credit to the corrected birth certificate as the U.S. Constitution requires.

Grendell said the additional documentation required for Nash did not violate the couple's right to equal protection because the court had reason to believe their case was different.

"[The court] was treating like cases alike and unlike cases accordingly," wrote Grendell. "The court cannot be expected to turn a blind eye to evidence that comes before it that could possibly foreclose the issuance of a marriage license . . . In other words, this case was not the usual case and the court was required to treat this case accordingly."

Grendell cited ten times to the 1987 *In re Ladrach* advisory opinion from Stark County. That opinion, which has been cited in cases nationwide because of the lack of case law pertaining to transsexuals, suggests that sex is irreversibly tied to chromosome composition and that it is the responsibility of the legislature to amend Ohio's marriage law if it wants transsexuals to be able to marry someone of the "same biological sex."

Noting that Grendell did not distinguish the *Ladrach* citations as advisory in her opinion, Barnabee said, "Citing to advisory opinions is not permitted in Ohio at the appellate level."

"This decision may have raised the stature of *Ladrach* because it is an appellate decision," said Barnabee, "but it did so without scrutinizing *Ladrach*."

Grendell also cited a dissenting opinion by U.S. Supreme Court Chief Justice William Rehnquist in a case describing how states should form public policy, and three times to Ohio Supreme Court Justice Evelyn Lundberg Stratton's dissenting opinion in the 2002 *In re Bicknell* case involving a lesbian couple's changing of their last name.

"Since the statutory language [defining marriage] in question was enacted in the 1900s, without change," wrote Grendell, "it cannot be argued that the term 'male' as used at that time, included a female-to-male post-operative transsexual."

Grendell also cited the 1984 U.S. Court of Appeals decision *Ulane v. Eastern Airlines* which states that Congress had a narrow definition of sex in mind when it passed the 1964 Civil Rights Act, therefore, transsexuals are not covered by Title VII of that law.

That interpretation was overturned in 2002 in U.S. district court in Cleveland in the case of *Susan Myers v. United Consumer Financial Services*. A U.S. district court in New York also overturned *Ulane* in September 2003.

Grendell also cited Ohio House Bill 272, the so-called "defense of marriage act" as a reason to deny the marriage. The bill was passed by the House December 10, but has not moved in the Senate or been signed by the governor, and as such, is not an Ohio law.

In her dissenting opinion, Christley wrote, "A person reading the above examples of legislation and judicial decision making would be appalled at the generalizations and outright ignorance used by courts and legislatures to justify obviously unconstitutional laws."