

# GIRLS DESERVE PRIVACY

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Dr. Kristine Severyn, Director

**Testimony before the Ohio House Higher Education Committee  
in favor of House Bill 183  
Ohio Statehouse, Room 017  
October 18, 2023**

Chairperson Young and Committee members: Thank you for the opportunity to present my support for Ohio House Bill 183. This legislation will help protect all students in Ohio K-12 schools and colleges, mainly girls and women, who without the legislation remain vulnerable to potential physical and psychological harm in spaces where they now have a legal expectation of privacy, e.g., bathrooms, locker rooms, and overnight accommodations.

I am Dr. Kristine Severyn, director of Girls Deserve Privacy, organized in Ohio to research and disseminate safety concerns when girls and women are compelled to share private spaces with biological males.

HB 183 opponents assert three misconceptions about this bill.

First, they claim that this legislation is not needed because Ohio has laws against public indecency<sup>1</sup> and voyeurism.<sup>2</sup> Sadly, these laws were of no help to young girls and women frightened in 2022 by a naked man, claiming to be a woman, who regularly used their Xenia, Ohio YMCA locker room, including “walking [naked] up and down the common [locker room] hallway.”

Despite the Xenia Prosecutor bringing charges for violating Ohio’s indecent exposure law, the man was acquitted at trial (which I attended) because no witness could see his genitals, an essential element of the law. In this case, the abdomen of the 5’8”, 350-pound defendant hung over his genitalia<sup>3</sup>. This means that if you’re large enough, you can walk around naked in front of young girls and never violate Ohio law. Clearly, it’s time to update Ohio’s indecent exposure and voyeurism laws.

When a girl or woman is distressed and embarrassed being watched by a male classmate or unknown man as she changes her clothes or showers in her locker room, she is told by school officials or recreation management in Ohio and elsewhere that the biological male may remain in the female locker room, with or without her. Girls are bullied by school staff to tolerate such privacy invasions.<sup>4 5 6</sup> So much for girls’ and women’s equal rights!

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<sup>1</sup> R.C. 2907.09

<sup>2</sup> R.C. 2907.08

<sup>3</sup> Ohio vs. Glines, Case 22 CR B 01337, Xenia, Ohio Municipal Court

<sup>4</sup> Miami County, Ohio Bethel Schools opens bathrooms and locker rooms to opposite sexes. Student and parents sue school district. <https://aflegal.org/afl-sues-bethel-school-board-in-ohio->

In Ohio all locker room patrons, male or female, have a legal “reasonable expectation of privacy”.<sup>7</sup>

Even the esteemed late Supreme Court Justice Ruth Bader Ginsburg wrote in 1975 that “[s]eparate places” for the two sexes “to disrobe, sleep, [and] perform personal bodily functions are permitted, in some situations required, by regard for individual privacy.”<sup>8</sup>

The second misconception about HB 183 is that it violates federal Title IX regulations. This claim is also false. Title IX stipulates that schools and colleges may “provide separate toilet, locker room, and shower facilities on the basis of sex” without putting the school’s funding at risk.<sup>9</sup> Likewise, schools and colleges may also “[maintain] separate living facilities for the different sexes.”<sup>10</sup>

The U.S. Department of Education proposed changes to Title IX regulations in 2022<sup>11</sup> and 2023<sup>12</sup> that threatened to take away federal school lunches and other funding if schools did not permit mixed-sex bathrooms and locker rooms. These proposed directives have not been finalized, and cannot be enforced.

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[for-forcing-children-to-share-bathrooms-and-locker-rooms-with-members-of-the-opposite-sex-and-for-violating-parents-rights/?fbclid=IwAR0uLRwU0FQwG92VUZo9WqIUFAEwsYqxPoXOYoVgBAweZc8BH1HI FuiDXmo](https://www.federalregister.gov/documents/2022/07/12/2022-13734/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)

<sup>5</sup> Vermont, girls volleyball team banned from their own locker room after expressing concern about a male student watching them change. <https://adfllegal.org/sites/default/files/2022-10/Allen-v-Millington-2022-10-27-Complaint.pdf>

<sup>6</sup> Wisconsin school district dismissed the risk to 9<sup>th</sup> grade girls when a 12<sup>th</sup> grade, 18-year-old male student, claiming to be transgender, showered with the girls. <https://will-law.org/will-files-federal-complaint-against-wi-school-district-demanding-action-following-troubling-locker-room-incident/>

<sup>7</sup> *State v. Dennison*, 2012-Ohio-1988., Williams County, Sixth Appellate District

<sup>8</sup> Ruth Bader Ginsburg, *The Fear of the Equal Rights Amendment*, Wash. Post, Apr. 7, 1975, at A21

<sup>9</sup> Title IX of the Education Amendments of 1972, 34 Code of Federal Regulations, § 106.33, Comparable Facilities, at <https://www.law.cornell.edu/cfr/text/34/106.33#:~:text=CFR-%20A7%20106.33%20Comparable%20facilities.,students%20of%20the%20other%20sex>

<sup>10</sup> § 1686 at <https://www.govinfo.gov/content/pkg/USCODE-2013-title20/pdf/USCODE-2013-title20-chap38.pdf#page=3>

<sup>11</sup> <https://www.federalregister.gov/documents/2022/07/12/2022-13734/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

<sup>12</sup> <https://www.federalregister.gov/documents/2023/04/13/2023-07601/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

Ohio Attorney General Dave Yost, and numerous other state attorneys general, similarly confirmed that Title IX protects single-sex bathrooms, locker rooms, and overnight accommodations.<sup>13 14 15 16 17</sup>

Attorney General Yost cautioned that permitting access to girls'/women's locker rooms by biological males who identify as female would give the impression that any male (transgender or not) may enter. Girls won't know who is safe and who is not.<sup>18</sup>

The third misconception regarding HB 183 is that it violates the U.S. Supreme Court's 2020 *Bostock* decision<sup>19</sup> banning gender identity employment discrimination (Title VII). The Ohio Civil Rights Commission, schools, and sports centers misinterpret *Bostock*, mistakenly assuming that it similarly bans single-sex intimate facilities in public accommodations. Attorney General Yost corrected the OCRC's error in interpretation.<sup>20</sup> The *Bostock* opinion stressed, "Under Title VII, too, we do not purport to address bathrooms, locker rooms, or anything else of the kind."<sup>21</sup>

Indeed, a federal Sixth Circuit district court granted 20 Plaintiff States, including Ohio, a preliminary injunction against three federal agencies, observing that *Bostock* was misapplied to deny privacy rights in intimate female spaces, e.g., locker rooms, showers, bathrooms, and living facilities.<sup>22</sup>

Safety and privacy concerns require that any person, male or female, should have the right NOT to be viewed by persons of the opposite sex while changing or showering in a locker room.

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<sup>13</sup> <https://www.saveservices.org/wp-content/uploads/2022/11/AG-Dave-Yost-Comment-Letter-Title-IX-Proposed-Rule.pdf>

<sup>14</sup> <https://www.ohioattorneygeneral.gov/getattachment/f10767a2-2cf3-4844-b943-90a503dc4c52/2023-006.aspx>

<sup>15</sup> <https://files.constantcontact.com/d3e83e11901/eb15a34c-c8be-4539-942d-441586065118.pdf?rdr=true>

<sup>16</sup> <https://www.texasattorneygeneral.gov/sites/default/files/images/executive-management/26%20-%20Amicus%20Brief%20of%20Indiana%20and%2020%20Other%20States%20ISO%20Appellants.pdf>

<sup>17</sup> <https://media.ca11.uscourts.gov/opinions/pub/files/201813592.2.pdf>

<sup>18</sup> *Supra* note 13 at 14-15.

<sup>19</sup> *Bostock v. Clayton County, Georgia*, U.S. Supreme Court, No. 17-1618, June 15, 2020. [https://www.supremecourt.gov/opinions/19pdf/17-1618\\_hfci.pdf](https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf)

<sup>20</sup> *Supra* note 14.

<sup>21</sup> *Supra* note 19 at 31.

<sup>22</sup> *Tennessee v. U.S. Department of Education*, 3:21-cv-308, Memorandum Opinion and Order, July 15, 2022.

As noted by Attorney General Yost, “While sex-segregated bathrooms draw distinctions on the basis of sex, they ensure that both sexes (and women in particular) can take advantage of educational opportunities without worrying about having their privacy threatened by the opposite sex.”<sup>23</sup>

To preserve the above stated privacy and safety concerns for girls and women, I urge this Committee to send HB 183 to the full House with a positive recommendation. In addition, I ask the Ohio General Assembly to update the Ohio Revised Code statutes for public indecency (R.C. 2907.09) and voyeurism (R.C. 2907.08).

Lawmakers are frequently called upon to revisit and revise laws to adapt to changing times. This is one of those times.

Thank you for your consideration. I welcome any questions.

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<sup>23</sup> *Supra* note 13, at 4.