

Witness Statement: Opposing Ohio House Bill 249 (HB 249), also known as the Indecent Exposure Modernization Act

To the Chairperson and Members of the Committee:

My name is Janet Newcity, and I am here today to speak in firm opposition to this bill. It may surprise you that a cis-gendered, married, heterosexual woman rapidly approaching senior citizen status is a huge fan of the drag scene in Columbus but here I am. I attend drag performances every week because I enjoy the artistry of these incredible performers - the dancing, singing, acting, both drama and comedy. Drag is an ancient art form, with roots in theatrical traditions thousands of years old. While the term "drag" is more modern, the practice of performers—often men—donning exaggerated feminine attire has been documented in ancient Greek theater, Roman pantomimes, and Japanese Kabuki. Columbus is at the center of this art form and yet this bill would make it nearly impossible to perform here.

And while the language of this legislation is framed around "performers and entertainers," what we are actually discussing today is a fundamental shift in how the government regulates personal expression, theater, and the very clothes on our backs.

I. A Solution in Search of a Problem

First and foremost, this bill is **entirely unnecessary**. Proponents of this legislation often suggest it is required to protect the public, yet we already have robust laws on the books regarding obscenity, indecency, and public conduct.

If a performance is truly harmful or "obscene" by legal standards, it is already illegal. By adding a layer of regulation specifically targeting gender expression, this bill isn't closing a "loophole"—it is creating a target. It is a solution in search of a problem that only serves to alienate a specific group of citizens.

I attended the hearing for the proponents of the legislation and they only referenced two specific instances that they thought this bill would address and only one of them was a drag performance. You could just enforce the existing laws.

II. The First Amendment and Personal Freedom

The First Amendment does not just protect the speech we find comfortable; it protects the **freedom of expression**. The Supreme Court has long held that clothing, makeup, and performance are protected forms of symbolic speech.

By dictating what an entertainer can wear based on their sex assigned at birth, the state is

engaging in **viewpoint discrimination**. This sets a dangerous precedent: if the government can decide that a man in a dress or a woman in a suit is "unlawful" in public, where does that authority end? Given that I am speaking in public right now, would I be breaking this law given what I am wearing? This bill is a direct encroachment on the personal freedom that remains a cornerstone of our democracy.

III. The Danger of Vagueness and Overbreadth

Perhaps the most concerning aspect of this bill is its **vague and overbroad language**. The criteria—"clothing, makeup, or physical markers" different from one's biological sex—are so broad they could theoretically criminalize:

- **Classic Theater:** High school productions of Shakespeare or Greek tragedies where "cross-casting" is a 2,000-year-old tradition. Would a high school production of *Newsies* be criminal since girls are cast as newsboys?
- **Mainstream Media:** Think of the confusion for a touring production of *Mrs. Doubtfire*, *Peter Pan*, or *Hairspray*, which is currently touring with Columbus' own Nina West. Would Ohio miss out on traveling productions of Tony Award nominated *Operation Mincement* because cast members play multiple roles, some of which are gender-swapped?
- **Cultural Traditions:** Here in Columbus, the Short North Stage often stages *Rocky Horror* at Halloween; it's one of their most popular productions every year. At Christmas, *The Nutcracker* is a beloved family tradition. Will the police arrest Mother Ginger, who is traditionally played by a male due to the physicality of the costume, in front of the children in the audience in their Sunday best? I walked past masked men with assault rifles to attend a local church event where a drag queen performed Christmas hymns. What does it say about this country that the police would be sent in to arrest the person singing about the birth of our savior rather than the men threatening violence?
- When a law is this vague, it creates a "chilling effect." Because entertainers won't know exactly where the line is drawn, they will stop performing altogether to avoid the risk of arrest. This lack of clarity is a recipe for **arbitrary enforcement**, where the law is used selectively against those the current administration finds "distasteful" while ignoring others.

Conclusion

We must ask ourselves: do we want a government that functions as a "fashion police," or do we want one that protects the constitutional rights of all its citizens? This bill is an overreach that threatens our local economies, our arts, and our fundamental liberties. I urge this committee to table this bill.