

WRITTEN TESTIMONY OF JOSHUA ADAM ENGEL IN SUPPORT  
OF SB 11 PREPARED APRIL 5, 2019

Chair Eklund, Vice Chair Manning, Ranking Minority Member Thomas, and the members of the Senate Judiciary Committee, my name is Joshua Engel and I am submitting this testimony in support of Senate Bill 11, the Ohio Fairness Act.”

I am currently the managing partner of Engel & Martin, LLC, a law firm in Southwest Ohio. I am a *cum laude* graduate of Harvard University Law School and am a member of the bars of Ohio, Massachusetts, and various federal courts, including the Southern District of Ohio, the Northern District of Ohio, the Courts of Appeals for the First, Third, Fifth, Sixth and Seventh Circuits, and the United States Supreme Court. I have worked as a prosecutor, defense attorney, in-house government attorney, and in private practice.

A large portion of my legal practice focuses on civil rights, and in particular on the due process rights of Ohio citizens. I have represented motorists who believe that automated traffic enforcement systems – referred to as speed cameras – are implemented in an unconstitutional manner. I have represented law enforcement officers who believe that their constitutional right have been violated by their employers. And I have represented students accused of misconduct on college campuses who believe that they face biased, kangaroo court-type, disciplinary hearing panels.

During the course of this work, I represent members of the LGTBQ community. In a recent federal case against The Ohio State University, for example, we represented a transgender woman who believed that she faced bias and hostility from the University and the general community. *Roe v. Adams-Gaston et al*, USDC, S.D. Ohio No. 17-cv-00945. In another recent case, I filed a lawsuit in Federal Court in Cincinnati on behalf of parents of transgender teenagers who have been denied or are seeking name changes. The lawsuit alleges that a juvenile court judge violated the equal protection rights of transgender teenagers when he denied the requests for the teenagers to change their names to conform with their gender identity. *Whitaker v. Kirby*, USDC, S.D. Ohio No. 18-cv-00540.

When I served as a prosecutor, I was counsel of record for the State of Ohio before the Ohio Supreme Court in the case finding that Ohio's constitutional amendment banning marriage for same-sex couples does not exempt a person from domestic violence charges because the person was not married to the victim. *State v. Carswell*, 114 Ohio St.3d 210, 2007-Ohio-3723.

I support the goal of making it an unlawful discriminatory practice to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee

because of the individual's sexual orientation or gender identity or expression. I further support the goal of generally prohibiting persons or entities from discriminating on the basis of an individual's sexual orientation or gender identity or expression. My law firm is committed to these ideals.

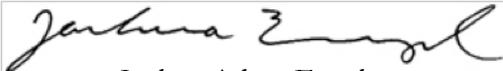
I wish to use this opportunity to address an important issue of constitutional law. I am aware that some well-meaning individuals believe that SB 11 would infringe on their religious rights. While my religious teaching accepts LGBTQ individuals as equal members of the community, I respect the sincerely held religious beliefs of others to the contrary. However, these sincerely held religious beliefs are not unconstitutionally infringed upon by extending legal protections to the LGBTQ community. Your obligation as legislators, consistent with your oath to uphold and defend the Constitution, is to define the liberty of all, not to mandate any particular moral or religious code.

The right to religious freedom is grounded in the idea that matters of personal dignity and autonomy are central to the liberty protected by the Bill of Rights. The Constitution protects "core" personal rights of people to answer for themselves questions relating to marriage, family relationships, child rearing, education, and related concerns. Requiring that a person not discriminate on the basis of sexual orientation or gender identity does not infringe on the ability of that person to define their own religious beliefs about existence or the meaning of life and universe.

People of faith and good conscience can disagree about questions with profound moral and spiritual implications; the right to discriminate on the basis of sexual orientation or gender identity does not implicate any of these questions. In other words, although people's view on LGBTQ issues may be informed by their religious beliefs, discrimination on the basis of sexual orientation or gender identity does not serve any constitutionally recognized interest in protecting people's own conception of the world. Instead of infringing on religious liberty, my view is that SB 11 serves the underlying core interest of the Bill of Rights of protecting the dignity and self-determination of all Ohio citizens.

I wish to thank the Committee for reviewing this testimony and I am available at the convenience of the Committee to answer any questions.

Sincerely,



Joshua Adam Engel