

Value All Families Coalition

FAQ on Gender Identity/Expression Protections

In House Bill 300, “gender identity or expression” provides necessary protections for transgender people from discrimination at work, in housing, and in public accommodations.

What is Transgender?

Transgender people are individuals of any age or gender whose appearance or personal characteristics differ from stereotypes about how men and women are “supposed” to be. This generally refers to transsexuals, who live their lives in a gender different than their sex at birth, and also covers people who are androgynous or who cross-dress at home or in social settings outside of work. Transgender also refers to men and women whose appearance or characteristics are perceived to be gender non-conforming, such as a masculine woman or feminine man. Transgender people may be lesbian, gay, bisexual *or* heterosexual.

Why Are Transgender-inclusive Laws Needed?

Transgender people face severe discrimination based on gender identity and expression. Those living openly have high unemployment rates or are under-employed. Housing and public accommodations are very difficult to obtain or use. For people who are not living openly, disclosure can mean loss of employment or housing. If not actually fired, transgender people who transition while working in their current job often deal with harassment from co-workers.

Isn't This Already Illegal?

While discrimination against transgender people often occurs due to misperceptions about sexual orientation, transgender people are not protected under sexual orientation. And, courts have held that transgender people are not protected by disability or sex discrimination laws either. Transgender people are only protected in the ten jurisdictions in Pennsylvania that have passed local ordinances banning this discrimination—the first was Harrisburg in 1983. This is about 17% of the state by population.

What Have Other Communities Done?

Other jurisdictions in the United States have successfully passed local and state legislation that protects transgender people from discrimination in employment, education, housing, and public accommodations. By population, 39% of the U.S. is now covered with one of these clearly transgender-inclusive laws, including 13 states and over 100 localities.

What About Business?

Many businesses have voluntarily adopted policies protecting their transgender employees. In fact, as of March 2009, 175 of the Fortune 500 companies have implemented nondiscrimination policies that included gender identity/expression. Judging employees by the quality of their work is considered a best business practice to retain experienced employees and to hire the best qualified applicants. Businesses do not adopt these policies only because it is the right thing to do, they do it for the reason they do most things—it helps the bottom line.

Do These Laws Work?

Because the first law passed in Minneapolis in 1975 and because 39% of the U.S. population lives in a jurisdiction with a gender identity/expression non-discrimination law, there is a lot of information about how these laws work and they work very well. Overwhelmingly, instances of discrimination are resolved informally when an entity is made aware of the law, exactly how these laws are supposed to work. In a small number of cases, a complaint is filed with the local or state enforcement agency, an investigation is done, and a settlement or determination reached. Finally, despite the widespread nature of these laws, only a handful of cases have ever reached the courts. The desired effect of these laws is to deter and reduce discrimination, rather than to punish it after the fact; experience from other states shows that this has been a success.