

The Honorable Eugene L. O'Flaherty, House Chair
Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

Dear Mr. Chairman,

I am writing today in support of H.1728, An Act relative to gender-based discrimination and hate crimes. I know from friends and constituents that transgendered people have a terribly difficult time finding jobs and apartments, and a terribly easy time being bullied, harassed, and even attacked by random strangers. It grieves me that Massachusetts law does not yet clearly prohibit discrimination based on gender identity and expression, an omission that adoption of H.1728 can correct.

I have found it both troubling and puzzling that a bill protecting those on the margins of society has been so often portrayed as a "bathroom" bill. What is behind this impulse to trivialize the rights people trying to live their lives with some measure of safety and security? There are clues in the public reaction to an act recently passed by this legislature to protect nursing mothers from criminal prosecution, Chapter 466 of the Acts of 2008.

I have followed with a fascinated horror the outcry in my local newspapers against the passage of what has been characterized as "that law for topless women." The following clipping (see next page) from the June 11, 2009 Somerville Journal offers an insight into the logic of opposition both to enacted law which protects nursing mothers and to H.1728.

The same warped logic is at work in both instances. We start with noble legislative goals: safeguarding mothers who breast feed their babies; protecting people whose gender identity runs contrary to the expectations of others. For some, any legal protection of civil rights that includes the right to one's own sexuality must lead inevitably to "live sex shows right there on the street" (Somerville Journal opinion piece).

One deviant messes it up

I think that person who mentioned the perverts and pedophiles in that SpeakOut about that law for topless women is right on the money. The politicians may have their hearts in the right place, about the mothers and the breastfeeding and all. But all it takes is one deviant to cause a problem. Like for instance, there are these street performers showing up in Harvard and Davis squares looking for tips. Now what if one of them decides that topless is better for tips? They could even hire a midget and dress them up like a baby and put on a little show right there in the street just for tips. If I know, I know I can think about it, I know someone with a sick mind will, too. And then we will end up having live sex shows right there on the street. Mark my words; that is what is going to happen.

It is this logic which is perverted, or at least sadly stunted. It is a sorry thing that many people's understanding of sex has never progressed out of the bathroom. Yet, do we, as lawmakers want to confine our thinking on issues touching upon human sexuality to considerations of bathrooms?

Interestingly, most of those who have contacted the Somerville newspapers in opposition to Chapter 466 of the Acts of 2008 have proposed their own solution to the predicament of nursing mothers away from home with their hungry babies. Week after week, I read that mothers should take their babies into public toilets, and nurse them there. All this bathroom talk started to sound familiar, and led me even further back into the history of the struggle for human equality.

I remembered the resurgence, in the 1960s and 1970s, of the movement to secure for women equal rights under the law. When women sought equal rights with men to serve on juries, there were those who objected on the grounds that their courthouses only provided bathrooms for men. Women seeking employment opportunities equal to those of men heard from many companies the protest that they simply didn't have bathrooms to offer female

employees.

I have concluded that this recurring theme, of responding to calls for equality under law with talk about bathrooms, is not just an effort to trivialize human rights. I think that it reflects a kind of panic that some people feel when faced with the possibility of having to mix in public settings with people they find so "different" that the idea makes them uncomfortable. As solicitous as we may want to be about human discomfort, we should be clear that we would not have transcended racial segregation laws, or a myriad of other injustices, if we let the preferences of some dictate the rights of others.

"An Act to Promote Breast Feeding" (Chapter 466 of the Acts of 2008) was not about topless women and dressed-up midgets. Equal rights and opportunities – for women, transgendered people, or anyone else – are not about bathrooms. Let's focus on what's at stake here, and enact H.1728.

Very Truly Yours,

Denise Provost

cc: Members of the Joint Committee on the Judiciary