

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 453
TITLE: Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)
COMMITTEE: Judiciary
HEARING DATE: February 8, 2022
POSITION: **SUPPORT**

House Bill 453 would Prohibit an employee of a correctional facility from discriminating against inmates on the basis of being a member of a protected class including, but not limited to, the inmate’s race, ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity, and for the managing official of the facility to develop a written nondiscrimination policy implementing this. It also requires the Department of Corrections and Rehabilitation to, in a private setting, ask each individual entering into the department’s custody to specify their gender identity and pronouns, and prohibit staff, contractors, and volunteers from failing to consistently use this information when referring to the inmate. Finally, the bill would require the department to only conduct a search of an inmate according to the search policy for their gender identity or the gender designation of the facility where they are housed, require the department to house the person in the correctional facility that corresponds with the individual’s gender identity, and mandate reassessment of housing assignment if new concerns arise with regard to an inmate’s health and safety. The Human Trafficking Prevention Project at the University of Baltimore School of Law supports this bill because it honors the humanity and dignity of transgender and gender non-confirming inmates, many of whom who have had to trade sex for survival or have been trafficked.

Efforts at raising public awareness about the crime of human trafficking commonly ignores the impact that gender identity has on a person's vulnerability to trafficking. Transgender and gender non-conforming persons are disproportionately vulnerable to being trafficked because of the discrimination and isolation that they so often face, which commonly translates into the hallmarks of heightened trafficking risk including sexual assault, financial instability, homelessness, and drug addiction.¹ As a result, many trans people are left with few options other than trading sex to meet their survival needs, which also puts them at higher risk of being trafficked. Once incarcerated, transgender sex workers are subject to the stigma of both being transgender and having traded sex, and accordingly, experience disproportionate amounts of discrimination and violence at the hands of other inmates, as well as prison officers and staff.²

While no single piece of legislation can undo the societal stigma and systemic oppression that transgender and gender non-conforming people face, particularly those who trade sex or have been trafficked, enactment of HB 453 seeks to alleviate some of these harms by codifying nondiscrimination policies relating to transgender and gender non-conforming inmates and mandating that correctional facilities update their intake and housing policies to meet the unique needs of this population. Respect for people’s basic humanity and dignity should not be optional, regardless of their incarceration status. Therefore, the Human Trafficking Prevention Project at the University of Baltimore School of Law supports House Bill 453 and respectfully urges a favorable report.

¹ See generally Polaris Project, *Unique Obstacles Put Transgender People at Risk of Trafficking* (2017), <https://polarisproject.org/blog/2017/03/10/unique-obstacles-put-transgender-people-risk-trafficking>.

² National Center for Transgender Equality, *Meaningful Work: Transgender Experiences in the Sex Trade* (2015), https://transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf (citing 52.6% of incarcerated transgender sex workers reported harassment by corrections staff, 24.9% were denied access to hormones, 26.9% reported physical assault by other inmates, and 10.7% reported being sexually assaulted by a prison officer).