

Trans Respect Agency & Dignity Act_Dawson Senate T

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Position: FAV



NATASHA M. DARTIGUE
PUBLIC DEFENDER

KEITH A. LOTRIDGE
DEPUTY PUBLIC DEFENDER

MARGUERITE LANEUAX
DISTRICT PUBLIC DEFENDER FOR DISTRICT 1

ALYCIA CAPOZELLO
ACTING DISTRICT DEPUTY PUBLIC DEFENDER FOR DISTRICT 1

GREGORY J. FISCHER
CHIEF ATTORNEY

POSITION ON PROPOSED LEGISLATION

BILL: S.B. 761 Transgender Respect, Agency, & Dignity Act

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 14, 2023

Esteemed Members of the Judicial Proceedings Committee,

My name is Angel Dawson, I am a graduate social work student from the University of Maryland, working on completing my field internship at the Maryland Office of the Public Defender. I also identify as non-binary and queer. Before pursuing social work, I worked in prison civil rights as a paralegal. In my past work and in my current internship, I have supported and advocated for incarcerated and detained trans people. I will take a moment here to clearly state that **I have never witnessed an incarcerated trans person pretending to be trans. Being incarcerated while trans is extremely dangerous. To pursue this experience for any unauthentic reason would put any person's well being and life at risk.**

In my years of professional experience, I have learned that transgender individuals experience sexual harassment and assault while incarcerated at appallingly high rates inside correctional facilities. This sexual violence occurs, in large part, because of facility placement. For example, **in men's prisons, I have found that trans women are subjected to a culture of sexual violence, often perpetrated and unmitigated by corrections staff, with few options for protection.**

At the Public Defender's Office, I am currently working with a young trans woman who has been placed in protective custody because of her gender identity. This young person has not yet been convicted of a crime and has been waiting for her trial in solitary protective custody for many months because of concern for her safety. As a result of prolonged isolation, her mental health has decompensated severely. **With no other avenue of protection, prolonged isolation in protective custody is often the only option for trans and gender non-conforming detained and incarcerated people.**

In 2015, the United Nations Mandela Rules¹ stated that “**prolonged solitary confinement amounts to psychological torture.**” In 2023, it is entirely unacceptable that trans and gender non-conforming detained and incarcerated people, including those who are pre-trial and have not yet been convicted of a crime, are subjected to psychological torture in exchange for the experience of bodily safety. We must do better than this and S.B. 761 is a step in the right direction.

The Maryland Office of the Public Defender respectfully requests a favorable report from this committee.

Sincerely,

Angel Dawson

Social Work Intern

1

<https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture>

SB TRAD Brige Dumais 1199SEIU Testimony FAV.pdf

Uploaded by: Brige Dumais

Position: FAV



Testimony on SB761/HB426
Transgender Respect, Agency, and Dignity Act
Position: **Favorable**

To Chair Smith and Members of the Senate Judicial Proceedings Committee
To Chair Clippinger and Members of the House Judiciary Committee,

My name is Brige Dumais (pronouns: they/them), and I am the Political Coordinator with 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the United States with over 10,000 members in Maryland/DC. Our represents members who work at LGBTQ community health centers, and members who are LGBTQ themselves. We urge a **favorable** report on SB761/HB426: Transgender Respect, Agency, and Dignity Act because it will protect transgender, nonbinary, and intersex inmates who face a staggering amount of discrimination and violence while incarcerated.

What the bill does:

- Allows LGBTQ individuals to request transfer to gender appropriate facilities based on their housing preferences & overall safety concerns.
- Prohibits discrimination from an employee of a correctional facility against inmates on the basis of certain protected classes, including but not limited to ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity.

Why the bill is needed:

LGBTQ inmates are more likely to be victims of violence than the general population, and LGBTQ individuals are more likely to be placed in solitary confinement due to being victims of violence. Studies have shown that solitary confinement has long term, adverse impacts on inmate's mental health.

When enacted, this legislation can help improve the mental health of transgender inmates, and help maintain physical health by reducing violence against transgender inmates. 1199SEIU holds a fundamental believe that everyone – no matter their gender or whether or not they are incarcerated – deserves to live a healthy and safe life, free from discrimination. Please vote yes on this bill.

In Unity,

Brige Dumais, they/them
bridgette.dumais@1199.org

SB761-2023.pdf

Uploaded by: Cameron LaFortune

Position: FAV

My name is Cameron LaFortune, I am a resident of Baltimore County, and I am urging a favorable decision on SB761.

I am confident that you'll have a great deal of testimony directly from trans people and from experts as to the exact statistics about violence against trans people in prison, and about how the trans community is often criminalized, making the improper housing of trans prisoners a serious issue. Their voices and expertise should be enough to warrant a favorable decision. However, I know that too often the voices of cis people like myself are given weight when it comes to trans issues, and so I wanted to at least give you a view into how one cis person views the question of housing trans prisoners according to their gender.

It seems to me that the primary concerns that people might feel about housing trans prisoners, and if we are being frank, these concerns are almost exclusive to the idea of housing trans women in female prisons, is that any trans prisoners represent a unique threat to the other inmates. This has been the general gist of the argument surrounding the U.K.s recent decision to rescind these protections from their trans inmates. [1]

While I appreciate these concerns, it is notable to me that these concerns only arise when the prisoner in question is trans. We do not question whether a cis female prisoner convicted of assaulting women ought to be housed among men; it is obvious to us that even though that prisoner may have be a demonstrable risk to their fellow prisoners, we do not question for an instant if their gender should be called into question. It is ONLY trans prisoners who face the possibility of this discrimination, despite there being no reason to believe that trans prisoners present any special threat to cis prisoners.

Indeed, we also seem to only be concerned with harm when it affects non-trans prisoners. The idea that imprisoning a trans prisoner in the prison of the opposite gender is likely to lead to them being assaulted, killed, or committing suicide, as I'm sure others will testify to. Yet this is not, apparently, noteworthy to any of the publications promoting this form of discrimination. The very likely harm that trans prisoners will suffer from such decisions is brushed off as "wanting to have liberal, sensitive, tolerant approaches" (paraphrasing), whereas the hypothetical harm done to cis prisoners is a matter of "safety". The safety of trans prisoners is, apparently, immaterial to those who do not wish to house trans prisoners according to their gender.

I want to note, I am not in favor of prisons in general, but I note that many of the concerns about prisoner safety come from voices who otherwise would never take an interest in prisoner welfare. We, as a society, do not question housing violent prisoners among other prisoners, or accept it as a trivial fact, or necessity of the prison system, unless the violent offender in question is trans. Then we have objections about the housing of violent prisoners! And yet even then, we do not debate the idea of separating violent prisoners, but rather we suggest that trans prisoners specifically and exclusively should be housed improperly according to their gender. Again, to be frank, it is obvious to me that these concerns are mere crocodile tears to justify mistreating trans people whenever possible, and to deny trans people fair treatment whenever possible.

What always underpins these arguments is the question of whether or not trans people are their

'preferred' genders, or as I believe it should be phrased, "whether or not trans people exist." I phrase it this way because it highlights the real discrepancy of views and honors the actual existence of trans people. Opponents of housing trans prisoners according to their gender do so because they do not believe they are really trans. They think that being trans is a preference, or as we have increasingly seen it framed, an ideology. To the opponents of this bill, there are no trans people, not really, because it is not possible for ones gender not to conform with ones body.

And if I can speak directly to the members of the committee who believe that, it is an act of cowardice. I won't mince words for the sake of their egos. It is a refusal to engage in introspection, so strong that they would prefer to inflict physical harm, even death, on others rather than engage in it. Because if trans people exist then all of us, every cis person, has to confront the idea that their gender is not as set in stone as they may have believed it to be. Almost all of us will come to realize that, just as Newton's physics did not change how we experienced the world, accepting trans people exist does not change how we feel or who we are. But there are some too terrified to let go of the rock of their current understanding to discover they can swim without it.

That is my perspective, as a cis man. Hopefully it is enough to convince you that cis people do care about trans rights, that the need for trans rights is obvious to anyone, and that the acceptance of trans rights is not something exclusive to radical thinkers, but is obvious to any of us who have had the pleasure to know trans people.

[1] <https://www.theguardian.com/society/2023/feb/26/transgender-women-male-genitalia-banned-from-womens-prisons>

SB0761 Transgender Respect, Agency, and Dignity Ac

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0761

Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

Bill Sponsor: Senator Carter

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0761 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

There are so many people in our jails, many of them for relatively minor crimes, that we have to re-think the whole process of incarceration. For persons who identify as transgender, or non-binary, or inter-sex, as well as for persons who identify with a religion that is non-Christian, or do not speak English very well, and many other personal traits that set them apart from the general population, any time in a correctional facility, no matter how short, can be very fraught.

This bill will allow for an inmate to state their personal orientation privately, in non-threatening circumstances. It will also allow them to be housed in a manner that respects their personal orientation and prohibit discriminatory treatment in the programs, services or activities they are entitled to.

We can no longer think of prisons as places for criminals who are beyond redemption. They are places that too many of our youth spend time in, and can have their lives shattered even more by the treatment they receive from correctional officers. New standards must be set to mitigate these problems.

We support this bill and recommend a **FAVORABLE** report in committee.

MVLS HTPP TESTIMONY - SB 761 Transgender Respect E

Uploaded by: CHERYL COUNTESS

Position: FAV

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MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB 761: CRIMINAL LAW – CORRECTIONAL FACILITIES –
TRANSGENDER NONBINARY, AND INTERSEX INMATES
(TRANSGENDER RESPECT, AGENCY, AND DIGNITY ACT)

March 15, 2023

Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 761.

My name is Heather Heiman, and I am the Project Manager for the Human Trafficking Prevention Project at Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest pro bono civil legal service provider to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in various civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 7,652 people across the State.

In fiscal year 2017, MVLS started the Human Trafficking Prevention Project (HTPP), a co-grant project through the Governor's Office of Crime, Control, and Prevention with the University of Baltimore School of Law Human Trafficking Prevention Project Legal Clinic. The HTPP at MVLS is a pro bono project that provides post-conviction relief such as expungement, shielding, and vacatur, as well as assistance with consumer, housing, and family law matters to those who meet the legal definition of a victim of human trafficking, and others who are at high risk for exploitation. Since its inception, the HTPP at MVLS has served over 200 clients who were survivors of human trafficking or at high risk for exploitation. For the reasons explained below, MVLS respectfully requests that the Committee returns a favorable report on SB 761.

The vast majority of the HTPP's transgender and gender-nonconforming clients have reported experiencing systemic and personal discrimination that prevented them from securing or retaining mainstream employment and safe housing. Many have had to turn to the underground economy, including trading sex, to meet their survival needs, putting them at increased risk of both being arrested and incarcerated by law enforcement AND exploitation by potential traffickers. Most critically, transgender and gender-nonconforming clients who were arrested and detained in correctional facilities in Maryland have shared with HTPP staff experiences involving persistent discrimination, blatant mistreatment, and outright violence while in detention.

Ms. D*, a transgender woman receiving legal help through MVLS, experienced and witnessed unconscionably disparate treatment while being detained in both Baltimore City Central Booking and other county-level jails in Maryland. Ms. D was placed in facilities with male inmates, despite alerting correctional facility staff to her fears of being attacked due to her female gender identity, where she endured continuous harassment and threats. Ms. D has been mis-gendered by correctional officers, and she continuously had to advocate for fair and respectful treatment of herself and others while in detention. Ms. D also had to fight against groups of other inmates who were threatening violence, including sexual assault, against her and other transgender or gender-nonconforming detainees. Correctional officers would often not intervene in these situations.

On at least one occasion, Ms. D was forced to first speak to a psychologist upon arrival at a correctional facility, and she felt pressure to “say I was psychotic because I was transgender.” Ms. D was also placed in special facilities for inmates with disabilities or in isolation, which she experienced as further instances of discrimination by the correctional system.

Ms. D also witnessed correctional officers displaying blatant disregard for transgender and gender-nonconforming detainees’ safety, including instances where officers unlocked and opened doors to let other inmates access and assault transgender individuals. She also saw officers neglecting to respond to transgender detainee’s requests for medical care and assistance, and she has coped with tragedy of learning that friends from the transgender community died in Maryland prisons, often followed by little or no information from authorities regarding the cause of death. When discussing the discrimination and abuse that she and other transgender detainees experienced, Ms. D noted that “the current system juggles with transgender people’s lives – we should not have to go through what we go through outside jail, just to lose our lives in jail.”

Although significant reforms are needed to address the systemic oppression that transgender and gender-nonconforming people face, SB 761 takes a first step to addressing harms ongoing in correctional facilities 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.

For these reasons, MVLS supports Senate Bill 761. We respectfully urge a favorable report.

**Name withheld to protect client’s privacy and safety.*

PJC testimony SB 761 favorable.pdf

Uploaded by: Debra Gardner

Position: FAV



Debra Gardner, Legal Director
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 228
gardnerd@publicjustice.org

SB 761 The Transgender Respect, Agency, and Dignity Act
Hearing before the Senate Judicial Proceedings Committee, March 15, 2023
Position: Favorable

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Among its projects is a longstanding commitment to achieving constitutionally adequate health care at the Baltimore City Detention Center, which is under the control of the Department of Public Safety and Correctional Services. Because of this commitment, and because SB 761 is a matter of fundamental human rights and universal human dignity, the PJC supports SB 761.

As counsel for the class of detainees in the city jail in the case of *Duvall v. Hogan*, I have encountered human beings that have suffered all of the dangers and indignities referenced in the bill and in the studies cited by other proponents of the bill: Transgender men and women and nonbinary individuals who have been stigmatized, shamed, harassed, misgendered, denied safe housing, denied gender-affirming health care, sexually humiliated, sexually assaulted, and beaten due to their gender identity.

DPSCS continues to maintain an illegal policy in its Medical Evaluation Manual regarding housing assignments that the bill will prohibit, i.e., to house all individuals who have not completed gender reassignment surgery according to their anatomy at birth. This policy violates the federal Prison Rape Elimination Act and the Americans with Disabilities Act. It is inconsistent with the Federal Bureau of Prisons' policy and the National Commission on Correctional Health Care's standards. It is even inconsistent with DPSCS's own Executive Directives on Identification, Treatment and Correctional Management of an Inmate Diagnosed with Gender Dysphoria and on Assessment for Risk of Sexual Victimization and Abusiveness.

All of these laws and policies require multi-factor, individualized determinations based on, among other things, safety, including the individual's own assessment of their safety and their housing preference. By maintaining this restrictive rule in the face of applicable law and sound policy, DPSCS flouts its legal obligations and endangers lives.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

Though the time an individual spends in the jail may be shorter than for those serving time in Maryland's prisons, the dangers they face are no less real and life-threatening. In 2021, a transgender woman died while housed with men in the jail. Her family could not obtain information about her death, and she was consistently misgendered by DPSCS representatives and medical personnel and referred to by a name she no longer used.

During an August 2022 tour of the jail, we encountered two transgender women who were suffering direct and substantial ongoing harm from the state's backward approach. They had both been forced over their objections to live in the men's general population despite having taken female hormones and lived as women in the community for years. One remained there despite having been previously assaulted by her cellmate, suffering injuries.

The other was housed in the Inpatient Mental Health Unit, not because she required any such care or treatment, but solely for her protection because she had been threatened by male detainees in general population. The depravity of this "solution" must be fully understood. The unit is reserved for individuals who present an immediate danger to themselves or others. They are subject to continuous visual observation and not allowed to wear any clothes (on the theory that they may attempt to use them to harm themselves). Thus, this transgender woman was made to take a space that someone else may have needed to save their life, and through bureaucratic rigidity, was subjected to unnecessary suicide observation. She was living naked and continuously subject to the prying eyes of guards and medical personnel for no even theoretically legitimate reason. In addition to violating the PREA's prohibition on the use of involuntary segregated housing, this "protection" is torture. And it must not be tolerated.*

For the foregoing reasons, the PJC supports SB 761. Should you have any questions, please contact Debra Gardner, Legal Director, at 410-625-9409, ext. 228 or gardnerd@publicjustice.org.

* On March 10, 2023, after class counsel's advocacy and urging by the court-appointed mental health services monitor in the *Duvall* case, class counsel was made aware of a new standard operating procedure for the IMHU that creates 3 levels of treatment and observation. If appropriately implemented, this procedure will mean that all persons housed in the IMHU will no longer be automatically and continually subjected to the extreme deprivations of suicide precautions. Nonetheless, even the lesser levels of observation involve many of the same deprivations and represent a severely restricted environment compared with general population. And this new procedure does nothing to change the policy of housing transgender individuals in the IMHU even if they do not need any such "treatment" as described in this testimony. Therefore, the state's unlawful use of involuntary segregated and highly restrictive, highly intrusive housing for certain transgender individuals persists.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

2023 SB0761 (TRAD) OPD Support.docx.pdf

Uploaded by: Elise Desiderio

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 0761 - Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/14/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 761.

The 2015 US Transgender Survey (USTS), which was the largest survey ever dedicated to the experiences of transgender people, found that 2% of respondents had been incarcerated in the past year.¹ In comparison, the incarceration rate for the total American population is 0.7%.²

In addition, 30% of respondents to the USTS who were incarcerated report being physically or sexually assaulted while incarcerated. These rates of physical and sexual assault are 5 to 10 times higher than those reported by cisgender individuals.³ In short, transgender people are more likely to be incarcerated, and once incarcerated experience higher rates of violence than their cisgender peers.

Currently, Maryland law does not provide specific protections for transgender, gender-expansive, or intersex (TGI+) people who are incarcerated. DPSCS policy requires that people be housed based purely on a physical exam. In particular, the policy states: “Incomplete surgical gender reassignment require that the patient be classified according to his or her birth

¹ S.E. James, J. L. Herman, S. Rankin, M. Keisling, L. Mottet, & M. Anafi, *The Report of the 2015 U.S. Transgender Survey* (2016), National Center for Transgender Equality, <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

² Peter Wagner and Wanda Bertram, *What percent of the US is incarcerated?* (January 16, 2020), Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2020/01/16/percent-incarcerated/>.

³ See *supra* note 1.

sex for purposes of prison housing, regardless of how long they may have lived their life as a member of the opposite gender.”⁴

The existing policy is expressly damaging to TGI+ people. First, it places them at a higher risk of violence by housing them based on anatomy alone. In addition, it detracts from their mental and emotional health by denying the validity of their experiences and lived gender. This housing policy can have clear and drastic effects on a person’s physical health as well.

SB 761 codifies an anti-discrimination policy in Md Code, Corr. Svcs. § 9-618. The Maryland Office of the Public Defender supports any effort that would increase protections for all persons who are incarcerated regardless of their race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs. Thus, we support this addition.

SB 761 also further codifies efforts to protect TGI+ people incarcerated in Maryland institutions. First, it would require correctional officials to develop nondiscrimination policies for incarcerated persons based on specified classes, and would require correctional staff to abide by those policies. In addition, the bill would require correctional staff to ask for a person’s gender identity and pronouns upon intake, allow for the person to update that information later, and require correctional staff, contractors, and volunteers to respect the given information. Finally, the bill allows TGI+ incarcerated people to select the housing and search protocols they prefer, and requires that a facility that denies those preferences provide a specific reason, in writing, with time for the person to raise an objection. It also prevents a facility from denying those preferences for discriminatory reasons, including the person’s anatomy

The Maryland Office of the Public Defender recognizes that TGI+ people are vulnerable to a greatly increased risk of violence while incarcerated. A person should not be subject to unnecessary or extraneous risks or violence while in the custody of the State. Given everything we know, failing to protect TGI+ people from the worst abuses of the prison system represents

⁴ Dep’t of Pub. Safety & Corr. Svcs., Clinical Services & Inmate Health Evaluation Manual, <http://itcd.dpscs.state.md.us/pia/ShowFile.aspx?fileID=702>; Jessica Anderson, *Better protections for LGBTQ detainees sought after transgender teen says she was discriminated against at Baltimore jail* (October 29, 2021), THE BALTIMORE SUN, <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-trans-de-20211028-jxo3djt2mzajfkorn3uwntwwry-story.html>.

not only shocking indifference, but an active and harmful choice.

We believe that this bill will help to reduce violence against TGI+ people who are incarcerated in Maryland's institutions. SB 761 creates policies that work to ensure the equitable treatment of all persons who are incarcerated, and urges DPSCS to treat TGI+ people with the dignity they deserve, and contains measures designed to proactively protect their health and safety.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 761.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Elise Desiderio, Assistant Public Defender II, elise.desiderio@maryland.gov

3_15_23- SB761 - Transgender Respect, Agency, and

Uploaded by: Ericka McDonald

Position: FAV



TESTIMONY TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

SB 761 - Transgender Respect, Agency, and Dignity Act

Position: Support

By: Nancy Soreng, President LWVMD

Date: March 15, 2023

The League of Women Voters is a nonpartisan organization that works to influence public policy through education and advocacy. The League's mission is to empower voters and defend democracy, which depends on equitable treatment and protections under law for all Americans, including LGBTQ people.¹

Despite protections mandated by the federal Prison Rape Elimination Act, incarcerated transgender people are significantly more likely to be victims of violence and sexual assault. Studies show that between 40-50% of transgender inmates have reported being sexually assaulted in prison—ten times the general prison population rate.^{2 3} Legislation and policies to protect incarcerated trans people have been enacted by states and jurisdictions in California, New York, Connecticut, Massachusetts, Washington DC, and Illinois.

This mistreatment often occurs when transgender inmates are not housed and searched based on their gender identity, or when they are held in solitary confinement, denied gender-affirming care, and harassed by prison staff. Current legal protections for transgender people in Maryland's prisons and jails are inadequate. In Maryland, there were at least seven reported instances of mistreatment of transgender inmates in 2021, including the death of Kim Wirtz and brutal attack of Amber Carter.^{4 5}

The Transgender Respect, Agency, and Dignity Act addresses documented practices by the Department of Public Safety and Correctional Services that subject transgender inmates to discrimination and mistreatment. The Act includes measures that ensure that transgender inmates are treated with respect, agency, and dignity, including prohibiting

¹ <https://www.lww.org/league-urges-us-senate-pass-equality-act>

² https://www.lambdalegal.org/blog/20201125_transgender-people-prisons-jails

³ <https://srtp.org/files/warinhere.pdf>

⁴ <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-jail-death-20210316-mqt5ri5li5eufhqwy3so7mye7a-story.html>

⁵ <https://www.cbsnews.com/baltimore/news/transgender-inmate-sues-maryland-alleges-officer-placed-her-in-chokhold-dropped-her-on-face-at-central-booking/>



discrimination and harassment, requiring facilities to have written nondiscrimination policies, gender-sensitive intake and and search policies, and housing based on the inmates preference when possible.

The League's Criminal Justice Position states that "all correctional systems provide **humane, dignified, non-discriminatory treatment of incarcerated people** and personnel, including appropriate healthcare and access to community-based rehabilitation programs." The Transgender Respect, Agency, and Dignity Act protects the health and safety of this vulnerable community.

The League of Women Voters, Maryland, representing 1500+ concerned citizens throughout Maryland, strongly urges a favorable report on SB761.

SB0761 Testimony (1).pdf

Uploaded by: Faran Elowyn

Position: FAV

Senator William C. Smith, Jr., Chair
Maryland Senate Judicial Proceedings Committee

SB 761

March 15, 2023

1:00 pm

In Support

I am Faran Lee Elowyn, a transgender woman who has lived in Maryland for most of her life. I am testifying in favor of SB 761.

I support this bill because transgender, nonbinary, and intersex people are at a greater risk of discrimination and violence than their cisgender peers. According to the National Center for Transgender Equality, transgender inmates are 10 times more likely to be sexually assaulted by a fellow inmate. They are also five times as likely to be sexually assaulted by staff. Additionally, staff often deny transgender inmates medical care. Gender-nonconforming people of color are especially vulnerable to abuse in the prison system.

If we as a society are going to respect gender-nonconforming people, we must respect them even if they are prisoners. If a transgender person commits wrongdoing, it is still imperative that we treat them as the gender they are. This is not only for their sake but the sake of gender-nonconforming people who are not incarcerated. It is especially important in a time when our country is experiencing a rise in anti-trans rhetoric.

One's basic human rights should not be forfeited once they fall into the prison system. This goes for transgender, nonbinary, intersex, and all prisoners from marginalized communities. To end discrimination toward gender-nonconforming people by correctional officials and staff, we must ensure that their human rights remain intact.

I ask you to support SB 761.

Faran Lee Elowyn

2023-03-15 SB 761 (OAG Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

ANTHONY G. BROWN
Attorney General



CANDACE McLAREN LANHAM
Chief of Staff

CAROLYN A. QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.
(410) 576-7036

WRITER'S DIRECT DIAL NO.
(410) 576-6584

March 15, 2023

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: SB761 – Correctional Facilities – Transgender, Nonbinary, and Intersex
Inmates (Transgender Respect, Agency, and Dignity Act) (**Support in
Concept**)

The Office of Attorney General supports the intent behind Senate Bill 761. This legislation prohibits correctional facility employees from discriminating against inmates “with regard to programs, services or activities, including harassing or retaliating against the inmate, on the basis of the inmate’s race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs.” Section 9-618(a). There is no question that transgender, nonbinary, and intersex inmates form a population that should be treated with respect, given equal access to programs and services, and should not be harassed.

We also recognize that the Department of Public Safety and Correctional Services may, at times, not be able to provide gender-appropriate housing and would urge caution about overly prescribing housing assignments in law.

For the foregoing reasons, we support Senate Bill 761’s emphasis on treating transgender, nonbinary, and intersex inmates with respect, agency, and dignity.

cc: The Hon. Jill Carter & Committee Members

SB 761 (TRAD) HPRP Testimony.pdf

Uploaded by: Ingrid Lofgren

Position: FAV



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

SB 761 – Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates
(Transgender Respect, Agency, and Dignity Act)

Judicial Proceedings Committee – March 15, 2023

Position: SUPPORT

Homeless Persons Representation Project (HPRP) is a non-profit civil legal aid organization that provides free legal representation, primarily in Baltimore City, Montgomery County, and Prince George’s County, to people who are homeless or at risk of homelessness on legal issues that can lead to an end to homelessness. HPRP urges you to issue a favorable report on the Transgender Respect, Agency, and Dignity Act (TRAD Act), which would correct current Department of Public Safety and Correctional Services (DPSCS) policies regarding the housing and treatment of transgender, nonbinary, and intersex inmates, and ensure that they live in safer, gender-affirming environments. The TRAD Act is necessary to protect HPRP’s clients who are criminalized both based on their gender identity and because they are unhoused.

LGBTQIA people, and in particular transgender and nonbinary people, experience extreme rates of housing instability and homelessness. One in five transgender people in the United States has been discriminated against when seeking a home, and more than one in ten have been evicted from their homes because of their gender identity.¹ It follows that homelessness is also a critical issue for transgender people. One in five transgender individuals have experienced homelessness at some point in their lives, and family rejection, discrimination, and violence contribute to a large number of transgender and other LGBTQ-identified youth who are homeless in the United States – and estimated 20-40% of unhoused youth.² Transgender and nonbinary youth and adults, who are already disproportionately affected by homelessness, are most likely to be further marginalized by criminalization, leading to high rates of incarceration.

Transgender, nonbinary, and intersex inmates face a staggering amount of discrimination and violence while incarcerated, both from other inmates and DPSCS staff. The TRAD Act addresses this urgent issue by including a nondiscrimination policy in any correctional programs, services, or activities based on an inmate’s gender identity or sexual orientation; creating a safer and more inclusive intake and classification process for transgender inmates; and ensuring a safer, gender-affirming environment by mandating DPSCS consider inmates’ safety concerns regarding the gender of their housing placement and placing them the appropriate facility.

HPRP urges the Judicial Proceedings Committee to issue a FAVORABLE REPORT on SB 761.

At a time when transgender people are under attack across the country, we must come together to ensure Maryland is a place where everyone can live safe, affirming, and prosperous lives.

Please contact Ingrid Lofgren at ilofgren@hprplaw.org or (410)656-9975 with questions.

¹ Nat’l Center for Transgender Equality, “Issues: Housing & Homelessness,” *available at* <https://transequality.org/issues/housing-homelessness>.

² *Id.*

BSH TRAD Support Letter.pdf

Uploaded by: Iya Dammons

Position: FAV



**Senate Bill 761
Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates
Transgender Respect, Agency, and Dignity Act
March 15, 2023
Support**

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

Baltimore Safe Haven is a social service organization that provides Baltimore City TLGBQ people currently living in survival mode with opportunities to thrive.

Baltimore Safe Haven is submitting this testimony in support of HB426, the Transgender Respect, Agency, and Dignity Act. This legislation would protect transgender, nonbinary, and intersex inmates who face a staggering amount of discrimination and violence while incarcerated.

With any history of incarceration being an overall barrier for quality of life, the trauma of misgendering, deadnaming, and mistreatment that transgender, nonbinary, and intersex inmates face makes our lives harder both within and outside of correctional facilities.

The wave of anti-trans legislation sweeping the nation is a chilling reality for transgender people. It is essential that we enshrine gender-affirming practices as the standard in the state of Maryland for the health and safety of all citizens.

We respectfully urge this committee to return a favorable report on HB426.

SB761 Transgender Respect, Agency, and Dignity Act

Uploaded by: Jaden Farris

Position: FAV



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(he/him)

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(she/they)

Joshua Seefried
(he/him)

March 15, 2023

SB 761 Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

Position: FAVORABLE

Annapolis Pride's mission is to advocate for, empower, and celebrate our LGBTQ+ community in Anne Arundel County to live fully and authentically. Our vision is a safe, equitable, and anti-racist community where people of all identities thrive.

As such, the Board of Directors of Annapolis Pride enthusiastically supports Senate Bill 761, because it provides respect and agency for transgender, nonbinary and intersex individuals who are housed in correctional facilities and helps protect their health and safety. By requiring the Commissioner to add gender identity to the data collected about inmates and allowing inmates to specify their own gender identity, the inherent dignity of the affected people is acknowledged and preserved. Moreover, the bill's provisions for requiring a written policy of non-discrimination in correctional facilities and the prohibition of discriminatory actions by corrections employees are essential steps in ensuring the rights and respect of gender diverse individuals are preserved while they are engaged in the correctional system.

People who identify as LGBTQ+ are over-represented in the prison population and are at high risk for sexual abuse and harassment while incarcerated. People who are transgender, nonbinary, or intersex who are not allowed to self-identify can be particularly vulnerable if they are not housed according to their gender identity. The mental health of these individuals is also more fragile if they are not addressed by their proper names, genders, honorifics, etc. This bill, therefore, codifies protections for these individuals.

The provisions of this bill which require written policies and documentation will assist the legislature in its oversight capacity of Maryland corrections and ensure that the rights and dignity of all inmates are supported.

For these reasons, Annapolis Pride respectfully requests a favorable report on Senate Bill 761.

Senate Trans Health Equity Act Testimony.pdf

Uploaded by: Jamie Grace Alexandeer

Position: FAV



2601 N. HOWARD STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

Jamie Grace Alexander
Policy Coordinator
jalexander@gmail.com@freestate-justice.org

The Honorable Chair Katherine Klausmeier
3 East
Miller Senate Office Building
Annapolis, Maryland 21401
February 28th, 2023

Testimony of FreeState Justice
IN SUPPORT OF SB460: Maryland Medical Assistance Program – Gender-Affirming Treatment (Trans Health Equity Act)

To the Honorable Chair Katherine Klausmeier and esteemed members of the Senate Finance Committee:

I'm here representing FreeState Justice, civil rights, legal & advocacy organization representing Maryland's LGBTQ+ community. We write today in support of SB460.

You'll hear from our panels many reasons why this bill should be passed. I want to briefly discuss what would happen if this bill does not pass & acquaint you with the problems this lack of coverage currently causes in my community.

This healthcare has been called elective or cosmetic but for Maryland's trans community it is anything but. Trans people will prioritize this critical gender affirming care over fun, housing, & even food. A trans person may stay at a job they hate or are discriminated against in order to afford this care out of pocket. Frequently, the money being used on these procedures could have been applied instead to significant investments that would also improve their quality of life, like moving out of an unsupportive parent's home. In some cases, trans people will even go without basic necessities in order to save money for expensive surgeries.

On the flip side, this care can often make a difference in a person's upward mobility. Counterintuitively, passing is almost required for many entry level jobs in the service & retail industry where being perceived as trans can mean abuse from customers & even fellow employees. Often, access to these surgeries will open them to opportunities previously closed to them because of bias, allowing their natural talents to shine. Embodying oneself fully as these procedures allow our transgender community members to do, makes all areas of life easier –especially employment.

FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland) is a social justice organization that works through direct legal services, legislative and policy advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.

When our community cannot access reliable employment or healthcare, their options for survival are limited. Many people turn to other sources for hormones, which are cheaper on the black market than for people who are uninsured. Others engage in sex work as the only employment where their trans identity isn't a problem & are compensated substantially above minimum wage.

When the cost of these out of pocket procedures are not personal, their burden is shared by our community. Every day, members of our community fundraise to meet the expenses required for these critical healthcare interventions. Using social media, trans people pass the same 5 -15 dollars around to meet each others fundraising goals.

Imagine, if that investment both on an individual & community level could be reinvested in the same way. Our community is weakened financially by the out of pocket costs of this healthcare & could truly thrive when it is covered more fully by this bill.

Finance Committee, these services are federally reimbursable and are estimated to cost less than a half a percent of the state's Medicaid budget, and the cost saved on social and legal services as a result of Marylanders receiving this care reduces the net cost further. This legislation is thus a low-cost solution that improves the quality of life of our the most marginalized within our community, based on the mainstream consensus of a broad swath of medical science and mirrors policy already in place across our country.

Jamie Grace Alexander

Policy Coordinator, FreeState Justice

⁽¹⁾ COMAR 10.09.02.01(11) "Medically necessary" means that the service or benefit is:

- (a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;
- (b) Consistent with current accepted standards of good medical practice;
- (c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and
- (d) Not primarily for the convenience of the consumer, family, or provider.

HPP Testimony TRAD (SB 761)- FAV.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 761
TITLE: Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)
COMMITTEE: Judicial Proceedings
HEARING DATE: March 15, 2023
POSITION: **SUPPORT**

Senate Bill 761 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 mandate that the managing official of the facility to develop a written nondiscrimination policy implementing this. It would also require the Department of Corrections and Rehabilitation to, in a private setting, ask each individual entering 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, to house inmates in the correctional facility that corresponds with their gender identity, and mandate reassessment of an inmate’s housing assignment if new concerns arise with regard to their health and safety. The Human Trafficking Prevention Project supports this bill because it centers the humanity and dignity of transgender and gender non-confirming inmates, many of whom have had to trade sex for survival.

The discrimination and isolation transgender and gender non-conforming people so often face commonly translates into circumstances that put these individuals at heightened risk of arrest, including financial instability, homelessness, and drug addiction.¹ Forced to fend for themselves in a society that routinely denies them access to safe housing and mainstream employment, many transgender people are left with few options other than trading sex to meet their survival needs, which again increases their risk of arrest and incarceration.² 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. A study on the experiences of transgender people in the sex trade³ found that 52.6% of incarcerated transgender sex workers reported harassment by corrections staff, while 26.9% reported being physically assaulted by other inmates. 10.7% reported sexual assault by a prison guard.⁴

While no single piece of legislation can undo the injustice and systemic oppression that transgender and gender non-conforming people face, particularly those who face incarceration, SB 761 seeks to address certain 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 supports Senate Bill 761 and respectfully urges a favorable report.

*For more information, please contact:
Jessica Emerson, LMSW, Esq.
Director, Human Trafficking Prevention Project
(E): jemerson@ubalt.edu*

¹ See generally Janet M. Grant, Lisa A. Mottet, & Justin Tanis, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (2011) https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

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 that 79.1% of transgender sex workers reported interaction with the police compared to 51.6% of non-sex worker respondents).

³ *Id.*

⁴ *Id.*

JPC SB 761 Testimony.pdf

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jill P. Carter

**In Favor of SB761 Child in Need of Assistance –
Neglect – Cannabis Use**

Before the Judicial Proceedings Committee

on March 15, 2023

**Chair Smith, Vice-Chair Waldstreicher, and Members of the
Committee:**

- **SB761 provides important protections that will help reduce incidents of violence in Maryland prisons. When transgender people are incarcerated, they are subjected to constant violence by both prison staff and other prisoners.**
- **SB761 does the following: (1) prohibits an employee of a correctional facility from discriminating against an inmate with regard to programs, services, or activities, as specified, on the basis of the inmate's race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs; (2) requires the managing official of a correctional facility to implement a written policy prohibiting discrimination against an inmate within the specified protected classes; and (3) establishes requirements**

for correctional facilities relating to inmates within specified protected classes.

- **Currently, transgender women are being placed in cells with individuals who are known to be violent towards transgender women. When the transgender women refuse such violent housing, they are punished and placed into administrative segregation, where they are only allowed out of their cells for one hour per day; they lose access to programming, classes and jobs; and they may lose accumulated good conduct credits.**
- **The conditions in our carceral institutions result in high levels of stress, fear, social isolation, infectious disease, and violence exposure, all of which can increase disability risks. Maryland prison conditions punish incarcerated individuals, especially transgender women, by damaging their health and wellbeing. SB761 will reduce some of these unjustifiable impacts.**
- **The bill will allow LGBTQ+ individuals to request transfers to gender appropriate facilities based upon their housing preferences and overall safety concerns.**
- **The submitted last year was originally based on a California bill of the same name. The California law has been an important step forward in protecting incarcerated transgender persons, and it has not led to disarray or an increase in violence in California prisons. California has approximately 1,671 incarcerated transgender, nonbinary, and intersex individuals. In the two years since the California bill was implemented, there have only been 353 housing transfer requests, and only 13% have been approved (47 approvals).**

- **The bill this year now includes a definition of “gender identity,” consistent with the definition used throughout Maryland’s Code. The definition requires that gender identity be “consistent and uniform” or have “other evidence that the gender identity is sincerely held as part of the person's core identity.” This definition also makes it even less likely that a non-transgender person would risk the violence imposed on those who are perceived as transgender in order to access a housing transfer.**
- **The bill no longer states that an incarcerated person shall be housed according to open-ended “preference.” Now, housing is only permitted in accordance with either gender identity or sex assigned at birth. In other words, the person must have a sincerely held transgender identity in order to request housing that does not align with sex assigned at birth.**
- **The bill also tightens up language permitting the prison to deny transfer requests. The bill now explicitly states that requests may be denied based on a “risk that the inmate may commit abuse.”**
- **These changes strike the appropriate balance to ensure additional safety for all incarcerated Marylanders.**
- **In sum, this bill will protect transgender and other individuals from being subject to discrimination and violence, and provide a safer and more orderly prison system.**

For these reasons, I urge a favorable report of SB761.

Sincerely,




Jill P. Carter, Esq.

NASW Maryland - 2023 SB 761 FAV - Transgender Resp

Uploaded by: Judith Schagrin

Position: FAV



Senate Judicial Proceedings Committee
Senate Bill 761 - Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates
Transgender Respect, Agency, and Dignity Act

March 15, 2023

SUPPORT

Maryland's Chapter of the National Association of Social Workers (NASW-MD) which represents professional Social Workers across the State of Maryland supports SB 761 Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act). This bill will allow LGBTQ individuals to request transfer to gender appropriate facilities based on their housing preference and overall safety concerns. This bill will also prohibit discrimination from an employee of a correctional facility against inmates on the basis of certain protected classes, including but not limited to ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity.

We need this bill because LGBTQ inmates are more like to be victims of violence than the general population. LGBTQ individuals are more likely to be placed in solitary confinement due to being victims of violence. Passage and enforcement of this legislation will make Maryland prisons and jails more orderly and safer by eliminating one of the most consistent causes of harm to people inside facilities.

There is overwhelming support for making these changes. Leading organizations suppose housing for transgender incarcerated people based on gender or safety, including the American Medical Association, United Nations, and the World Health Organization. NASW Maryland is proud to join in support.

We urge a favorable response for SB 761.

Yvonne Davis, Chair
Forensics Committee
NASW-Maryland

SB761_Mink_Fav.pdf

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Position: FAV



SB761, Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

Favorable

I am a member of the Montgomery County Council, representing District 5. The full Council supports this bill, and I am additionally submitting this testimony on my own behalf, respectfully urging a favorable report on SB76. Thank you to Senator Jill Carter for championing this critical piece of legislation.

I'd like to first ensure that "local correctional facilities" are included under the bill language which references "correctional facilities." These standards must be applied evenly, and I have received varied legal opinions as to whether local facilities may fall through the cracks.

Transgender prisoners are victimized behind bars at rates higher than any other demographic group studied, according to the U.S. Bureau of Justice Statistics. That's one of the reasons the federal Prison Rape Elimination Act (PREA) standards are in place and should be stringently enforced. Unfortunately, Maryland is not currently compliant with PREA standards, a liability issue that leaves our most vulnerable incarcerated people at dramatically increased risk of harm.

Maryland holds the dishonor of being the first state where an incarcerated person has won individual relief for PREA violations. Sandy Brown, a transgender woman under the care of the Maryland Department of Public Safety and Correctional Services was taunted, harassed, and encouraged to commit suicide by guards. Charges were brought under PREA, and Brown was awarded \$5,000. That abuse occurred nearly a decade ago, and since the ruling, Maryland has remained non compliant with PREA standards and the allegations of harassment and assaults of transgender inmates in Maryland has continued.

Our continued failure in this regard is a stain on our state. Bill SB761 provides an opportunity to move onto the right side of history and federal law. I urge the Committee to ensure local correctional facilities are covered by this bill, and deliver a favorable report. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristin Mink".

Kristin Mink

WrittenTestimony_SB761.pdf

Uploaded by: Leah Higgins

Position: FAV

Senate Bill 761
Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates
Transgender Respect, Agency, and Dignity Act
March 15, 2023
Support

The Gender Violence Clinic at the University of Maryland Francis King Carey School of Law represents criminalized survivors of violence – people who have been victims of gender-based violence (intimate partner violence, rape, sexual assault, human trafficking, and violence related to gender identity and/or sexual orientation) and whose incarceration (current or former) is related in some way to that violence. The clinic’s clients include transwomen who have experienced housing instability, discrimination, and sexual and physical violence in the Maryland prison system based on their gender identity.

The Gender Violence Clinic is submitting this testimony in support of HB 426, the Transgender Respect, Agency, and Dignity Act. This legislation would protect incarcerated transgender, nonbinary, and intersex people who face a staggering amount of discrimination and violence while incarcerated. Incarceration for transwomen in men’s prisons is particularly dangerous; one study found that 59% of the transwomen housed in men’s facilities had been sexually assaulted.¹ Moreover, issues with housing for transgender, nonbinary, and intersex people regularly lead to them being placed in segregation for prolonged periods of time despite having committed no offense within the prison. Such extended use of segregation has been deemed torture by the United Nations. And when transgender, nonbinary, and intersex people are placed in segregation as a result of housing issues, they can lose access to needed medical care.

Inmates are not sentenced to be raped. Transwoman inmates in men’s prisons are substantially more likely to be subjected to sexual assault and rape.²

¹ Valerie Jenness, Cheryl L. Maxson, Kristy N. Matsuda, and Jennifer Macy Sumner. Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault (2007).

² See, Valerio Bacak, Katherine Bright, and Lauren Wilson, *Gender-Affirming Housing In Jails and Prisons*, THE LANCET, 2020, <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2820%2930100-6> (Finding that the prevalence of sexual assault among transgender women in men’s prisons was 13 times greater than the rate for cisgender men); NATIONAL CENTER FOR TRANSGENDER EQUALITY, *LGBTQ People Behind Bars: A Guide To Understanding The Issues Facing Transgender Prisoners and Their Legal Rights*, 2018, [TransgenderPeopleBehindBars.pdf \(transequality.org\)](https://www.transequality.org/TransgenderPeopleBehindBars.pdf) (Identifying that incarcerated transgender people are nearly 10 times more likely to be sexually assaulted than the general population); Beth Schwartzapfel, *DOJ Tells Prisons To Put Safety First in Housing Transgender Inmates*, THE MARSHALL PROJECT, 2016, <https://www.themarshallproject.org/2016/03/29/doj-tells-prisons-to-put-safety-first-in-housing-transgender-inmates> (reporting that The Bureau of Justice Statistics found that more than a third of transgender prisoners had been sexually assaulted in the past year, a rate

Additionally, PREA data from 2015 shows that transgender people experience the highest victimization in jails.³

DPSCS' current policy for housing trans inmates is dangerous, wasteful, and inconsistent with logic. Transwomen who are incarcerated in men's housing are all too familiar with the toxic cycle of being sexually abused by a cellmate, reporting abuse, losing housing because of abuse, being subjected to segregation with a possible infraction, being reintroduced to general population, being abused by a cellmate, repeat.

Lastly, using the pronouns appropriate to someone's gender is something we now learn in grade school. It is a matter of basic human decency. Our clients have spoken about the impact of gender affirming language. Using a person's preferred pronoun leads to less adversity, more respect, and an overall safer environment. A person whose pronouns are respected is less likely to engage in harmful activity against themselves.⁴

All correctional agencies have a legal obligation to protect the people they incarcerate. Housing transgender people according to gender identity and using appropriate pronouns increases safety in prisons.

We respectfully urge this committee to return a favorable report on SB 761.

more than eight times as high as among state prisoners generally. The UC- Irvine researchers found rates as high as 60 percent); According to federal data, transgender people are nearly ten times more likely to be sexually assaulted than the general prison population, with an estimated 40% of transgender people in state and federal prisons reporting a sexual assault in the previous year, <https://transequality.org/sites/default/files/docs/resources/TransgenderPeopleBehindBars.pdf>.

² Valerie Jenness, *Transgender Inmates In California Prisons: An Empirical Study of a Vulnerable Population*, UCIRVINE CENTER FOR EVIDENCE-BASED CORRECTIONS, 2009, [Slide 1 \(bpb-us-e2.wpmucdn.com\)](https://www.bpb-us-e2.wpmucdn.com), (reporting that 35 percent of transgender female inmates in California would prefer to be housed in a women's facility).

³ United States Department of Justice, PREA DATA COLLECTION ACTIVITIES, 2015, <https://bjs.ojp.gov/content/pub/pdf/pdca15.pdf>

⁴ Nicholas J. Parr and Bethany Grace Howe, *Heterogeneity of Transgender Identity Nonaffirmation Microaggressions and Their Association With Depression Symptoms and Suicidality Among Transgender Persons*, 6 *PSYCHOLOGY OF SEXUAL ORIENTATION AND GENDER DIVERSITY* 461 (finding that increasing frequency of transgender identity non affirmation or denial was significantly associated with 150-240% increases in odds of past-year sadness, and hopelessness. Misgendering also has the effects of: withdrawal from regular activities, suicidal ideation, apathy, decreased social engagement, and depression) (2019), <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fsgd0000347>.

Support SB 761 - Trans Maryland.pdf

Uploaded by: Lee Blinder

Position: FAV

Trans Maryland
1800 E Northern Parkway #66332
Baltimore MD 21239



**Senate Bill # 0761 Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates
Transgender Respect, Agency, and Dignity Act**

Senate Judicial Proceedings Committee

March 15, 2023

Position: Support

Chair Smith, Vice Chair Waldstreicher, and the esteemed Senate Judicial Proceedings Committee members, my name is Lee Blinder, and I am testifying on behalf of Trans Maryland. Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. Trans Maryland runs the state's largest volume name and gender marker change program, offering peer-to-peer guidance and financial assistance to Marylanders seeking a name and gender marker change. We also run the state's largest peer to peer connection space, and as part of our outreach, we talk to thousands of transgender Marylanders, including those currently and formerly incarcerated. I recently also served on Governor Moore and Lt. Governor Miller's transition team. In addition, I also serve as the policy chair of the Maryland Commission on LGBTQ Affairs, and my testimony reflects my position of support for SB 761 in my capacity with Trans Maryland and the Commission.

Trans Maryland wishes the record to reflect our strong support for SB 761. Incarcerated transgender, nonbinary, and intersex persons are particularly vulnerable members of our society. We want to ensure the gaps in Department of Public Safety and Correctional Services (DPSCS) policies are closed, which will address existing concerns for incarcerated transgender persons' safety and well-being, and this legislation is a crucial step towards that goal. Solitary confinement is being used by DPSCS due to lack of safe housing for transgender, nonbinary, and intersex incarcerated persons, and that practice must cease. We are eager to collaborate with DPSCS to implement best practices moving forward. Our incarcerated transgender community members have shared that they have experienced: lack of access to their gender affirming hormone therapy, lack of access to medical and mental health providers who have undergone specialized trainings (such as WPATH certification) for providing care to transgender patients, requirements for them to undergo mental health evaluation before being permitted to start gender affirming hormone therapy - a practice that is out of compliance with the international standards of care which call for hormone therapy to be provided via informed consent ([WPATH, Standards of Care for the Health of Transgender and Gender Diverse People, Version 8, 2022](#)), being subjected to violence by fellow incarcerated persons or correctional officers due to their transgender status, intentional use by correctional officers and staff of their former legal names after they have completed a legal name change, intentional use of incorrect pronouns by correctional officers and staff, and lack of access to affirming gender appropriate commissary such as makeup.

The issues our incarcerated transgender community members are experiencing are numerous, and we need to update the processes to ensure safety. This will improve the data that DPSCS reports on regarding the safety of incarcerated persons under PREA (the Prison Rape Elimination Act), improves the overall environment in our prison systems for incarcerated people which leads to fewer situations that require lengthy documentation or investigation. When the incarcerated transgender population is referred to in an affirming manner by corrections officers and staff through use of their correct names and pronouns, that shows that gender identity is

For more information, contact Lee Blinder, Executive Director of Trans Maryland at lee@transmaryland.org

Trans Maryland
1800 E Northern Parkway #66332
Baltimore MD 21239



taken seriously by the Maryland Department of Corrections. This will have a positive ripple effect, and DCSPS will have not only a moral and ethical, but also a legal responsibility to implement the anti-discrimination protections listed in the bill department wide. The first Black governor of Maryland, Governor Moore promised in his State of the State speech to leave no one behind. Leaving no one behind **includes** incarcerated transgender, nonbinary, and intersex incarcerated persons.

Trans Maryland has consulted with the leading legal organizations and legal entities representing incarcerated transgender persons, we have received direct communications from incarcerated transgender persons for the last 5 years, and all have shared with us that no transgender person is currently housed according to their affirmed gender in any DPSCS facility in Maryland. We are aware of at least 24 transgender people housed between 2 DPSCS facilities in Maryland (one referred to as a women's facility by DPSCS, and one referred to as a men's facility by DPSCS), and we would assume other locations have similar or more numbers of incarcerated transgender persons. Because of this we can assume that there is a discriminatory factor contributing to the housing of transgender incarcerated persons, and passing this crucial legislation would remedy this.

The respect agency and dignity of our incarcerated transgender, nonbinary, and intersex populations is paramount, and passing this legislation will ensure a pathway to rectify outdated practices and procedures and ensure that Maryland's prison facilities under DPSCS are continuing to grow and evolve in their treatment of incarcerated transgender, nonbinary, and intersex populations.

For all of these reasons, **we urge a favorable report on Senate Bill # 0761.**

For more information, contact Lee Blinder, Executive Director of Trans Maryland at lee@transmaryland.org

sb761- incarcerated, transgender, etc. JPR 3-15-'2

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony Prepared for the
Judicial Proceedings Committee
on
Senate Bill 761
March 15, 2023
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for this opportunity to testify about the safety of individuals in the custody of the State of Maryland. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community located within every jurisdiction of our State.

Our assessment of the human, civil, and community effects of incarceration-as-criminal-punishment are shaped by both the experience with imprisonment in the long faith tradition (see, e.g., Is. 61:1c and Lk. 4:18b, II Cor. 11:23b and Matt. 25:36b) *and* our ministry projects inside prison walls. One of those projects is here in Maryland, the Community of St. Dysmas, an authorized worshipping congregation served by an ordained ELCA pastor. That community has been present on the inside of Maryland's correctional system since 1985.

The safety and humane treatment of incarcerated people is the responsibility of the State. When we researched and discussed criminal justice in the United States, one topic we identified for our concern was 'punishments within the punishment,' one of which is violence among the incarcerated. One kind of violence we specifically call out is sexual violence ("Criminal Justice," ELCA, 2013, pg. 26).

For that reason, we support **Senate Bill 761**, because it tasks the Department of Corrections, and those responsible for the administration and conduct of its facilities, to develop and practice standards and procedures for protecting these wards of the State, based on gender identity. Our prison pastor reports that her ministry does encounter such individuals and that their safety can be an issue within their imprisoned living conditions.

Our hope, and witness to this Committee, is that Maryland will not permit its prison system also to be a gender and identity punishment, too. So, we ask your favorable report.

Lee Hudson

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Position: FAV

Discrimination of transgender people in prisons and placing transgender people into prisons not corresponding to their gender identity causes real harm to real people. Trans men and women in Maryland have suffered terribly from mistreatment in our correctional facilities. I will collect and share the stories of some of those people here.

In 2015, 19 year old trans woman Deiarra Venable was held in custody for four days on charges of fourth degree burglary which were later dropped. When being processed into a men's jail, she was stripped naked and kept in a transparent glass cell for 45 minutes, while the police and corrections officers leered at her, ridiculed her, and made inappropriate lewd remarks towards her. Her bra was confiscated and she was forced wear a sheer thermal shirt, through which her breasts were visible. She was even forced to go to her court hearing in that shirt. While in custody, she was repeatedly sexually harassed and demeaned by corrections staff, other inmates, and even the bail commissioner.

In 2017, 28 year old trans woman Portia Simms was placed into a male prison awaiting sentencing. There, corrections officer Olukenle Oyenkami entered her cell and raped her. Simms is still in a male prison, where, without the Trans Respect Agency and Dignity Act, she will likely remain for the next 12 years, at daily risk of further sexual violence. Oyenkami was sentenced to 90 days, of which he served 45.

In 2019, trans woman Amber Canter, held in a male prison and notable for her advocacy on behalf of the rights of incarcerated trans people, was placed in an illegal chokehold and dropped to the hard floor. She suffered skull fractures and internal bleeding behind her right eye, among other injuries.

In 2021, 43 year old trans woman Kim Wirtz was found dead alone in her cell in a male prison. No cause for her death was ever given. The case remains, and will likely stay, unsolved.

None of these women were sentenced to sexual humiliation, rape, grievous injury or death – one was not sentenced at all. To claim to have a fair and equitable justice system, we must know that the sentence which is handed down by the court is the sentence which is served. That is not the situation for transgender prisoners in Maryland today. I urge the Committee to pass the Transgender Respect Agency and Dignity Act to correct this situation.

SB0761 Transgender Respect, Agency, and Dignity Ac

Uploaded by: Margo Quinlan

Position: FAV

Senate Bill 761 Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)
House Judicial Proceedings Committee
March 15, 2023
Position: Support

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health, mental illness and substance use. We work to advance a system of care that is readily and equitably accessible to children and families, which promotes mental wellbeing and resiliency, and that is family driven and youth guided.

MHAMD is in strong support of Senate Bill 761, the Transgender Respect, Agency and Dignity Act, which would protect the physical and mental wellbeing of LGBTQ Marylanders when incarcerated. SB 761 would allow LGBTQ individuals to request transfer to gender appropriate facilities based on their housing preferences & overall safety concerns. This bill also prohibits discrimination from an employee of a correctional facility against inmates on the basis of certain protected classes, including but not limited to ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity.

Transgender Marylanders are at particular risk of psychological distress and associated impairment, primarily from elevated exposure to stigma-related minority stress¹ and from the stress associated with a lack of gender affirmation² (the accurate recognition and validation of one's gender identity). Minority stress is unique, socially based, and chronic, and may make trans and non-binary people more vulnerable to development of behavioral health concerns such as anxiety, depression, or substance use.³ Minority stress is inextricably linked to the

¹ Reisner SL, Poteat T, Keatley J, et al. (2016). *Global health burden and needs of transgender populations: a review*. *Lancet* 2016; 388:412–43. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7035595/>

² Dhejne C, Van Vlerken R, Heylens G, et al. (2016). *Mental health and gender dysphoria: a review of the literature*. *International Review of Psychiatry* 2016; 28:44–57. <https://pubmed.ncbi.nlm.nih.gov/26835611/>

³ Institute of Medicine. (2011). *The health of lesbian, gay, bisexual, and transgender people: Building a foundation for better understanding*. Washington, DC: The National Academies Press. <https://www.ncbi.nlm.nih.gov/books/NBK64806/>

For more information contact:

Margo Quinlan, Director of Youth & Older Adult Policy: 410-236-5488 / mquinlan@mhamd.org

heightened discrimination transgender people face in housing⁴, employment⁵, education⁶, and policing⁷.

SB 761 is a critical tool in addressing the challenges that our marginalized communities face when incarcerated. LGBTQ inmates are more likely to be victims of violence than the general population – 40% of trans women have reported being sexually assaulted in prison, and 50% of transgender inmates experience sexual assault while incarcerated, a rate 10 times the general prison population.⁸ Additionally, LGBTQ individuals are more likely to be placed in solitary confinement due to being victims of violence - 85% of LGBTQ inmates report being held in solitary confinement, and 50% were placed in solitary confinement for their protection but against their will.⁹ This mistreatment of LGBTQ people in Maryland's jails and prisons leads to significant negative mental health outcomes.

This bill will make Maryland prisons and jails more orderly and safer by eliminating one of the most consistent causes of harm and psychological distress inside facilities. **We recognize the need to protect transgender residents from suffering even greater harms when incarcerated and, as such, urge a favorable report on SB 761.**

⁴ Romero, A., et al. *LGBT People and Housing Affordability, Discrimination, And Homelessness* (2020). <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>

⁵ Center for Constitutional Rights. *No Pride in Prejudice: LGBTQIA+ People's Experiences with Employment Discrimination*. (2019). <https://ccrjustice.org/no-pride-prejudice-lgbtqia-people-s-experiences-employment-discrimination>

⁶ GLSEN. *The 2019 National School Climate Survey*. (2019). https://www.glsen.org/sites/default/files/2020-10/NSCS19-Full-Report_2.pdf

⁷ Mallory, C., Hasenbush, A., Sears, B. *Discrimination and Harassment by Law Enforcement Officers in the LGBT Community*. (2015). <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Discrimination-by-Law-Enforcement-Mar-2015.pdf>

⁸ Lambda Legal. *Abuse and Neglect of Transgender People in Prisons and Jails: A Lawyer's Perspective*. (2020). https://www.lambdalegal.org/blog/20201125_transgender-people-prisons-jails

⁹ Ibid.

SB 761 - WLCMD - FAV.pdf

Uploaded by: Michelle Siri

Position: FAV

BILL NO.: Senate Bill 761
TITLE: Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates
(Transgender Respect, Agency, and Dignity Act)
COMMITTEE: Judicial Proceedings
DATE: March 15, 2023
POSITION: **SUPPORT**

Senate Bill 761 would require correctional facilities to institute policies stating that an inmate may not be discriminated against with regards to programs, services, or activities based on the inmate’s race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs. Facilities would then also be required to inquire as to an inmate’s gender identity and proper pronouns. Finally, all facilities must then ensure that inmates are addressed using their proper identifiers and are searched and housed according to their gender identity, not sex-at-birth.

Nearly one in six transgender Americans—and one in two black transgender people—has been to prison. For those incarcerated transgender individuals, discriminatory policies and sexual assault are constant and real threats. Because transgender incarcerated people in Maryland are still Housed according to the sex assigned at birth, instead of by gender identity, they are more vulnerable to harassment or attack by staff or fellow incarcerated people. Per Lambda Legal, a recent study found that transgender people were 13 times more likely to be sexually assaulted than non-transgender people in prison¹. Segregating transgender people as an entire group within the correctional system —especially without their consent—can stigmatize them, cut them off from work opportunities, privileges and resources, and actually encourage violence by staff. Thus, it is clear that a policy is required to ensure they are properly Housed, recognized, and treated with respect and dignity.

As conditions for transgender people behind bars remain discriminatory and dangerous, many jurisdictions, including Cook County, IL, Cumberland, ME, Denver, CO and Washington, DC—have had success with policies that classify people by gender identity rather than sex assigned at birth. Furthermore, this policy has successfully been in place in facilities within the United Kingdom since 2011. It is time that Maryland joins those areas in providing dignity and respect, as well as safer conditions, to transgender inmates. The WLC recognizes that gender justice cannot occur without trans justice; we are all fighting for bodily autonomy, economic security, and the ability to be free from violence and discrimination. As such, the WLC urges a favorable report on SB 761. For more information, please contact Michelle Siri at msiri@wlcmd.org.

The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

¹ Transgendered Incarcerated People In Crisis, Lamda Legal, <https://www.lambdalegal.org/know-your-rights/article/trans-incarcerated-people>

MD SB 761 Testimony.pdf

Uploaded by: Molly Whitehorn

Position: FAV



HUMAN
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Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401

March 15, 2023

Re: Human Rights Campaign Support of MD SB 761

Dear Chairman Smith and Members of the Committee,

The Human Rights Campaign (HRC) is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of HRC's more than three million members and supporters, many of whom live in Maryland, we thank you for the opportunity to submit testimony in favor of SB 761 and urge you to pass this important legislation.

Studies suggest that nearly one in every six transgender Americans has been to prison. For Black transgender people, the number is one in two.¹ This disproportionate contact with the criminal justice system means that these inmates are especially vulnerable to harassment, discrimination, and violence behind bars. The statistics on the abuses faced by incarcerated transgender people are alarming: according to federal data, transgender people are nearly ten times more likely to be sexually assaulted than the general prison population.² They are also medically neglected and denied access to routine and gender-affirming healthcare while serving their sentences.³ Furthermore, there is evidence to suggest that most transgender people are placed in facilities that do not match their gender identity, and that puts them in very real danger.

There can be no doubt that the protections enumerated in SB 761 will save lives. Provisions requiring correctional facility staff to use correct pronouns and honorifics are only the tip of the iceberg. In an effort to reduce the violence that so many experience in prison, the bill will allow transgender inmates to be housed according to their gender identity and requires that their preferences and

¹ Transgender Incarcerated People in Crisis, LAMBDA LEGAL (2012), <https://www.lambdalegal.org/knowyour-rights/article/trans-incarceratedpeople>.

² Beck, A. J. (2014). *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates*. Washington, DC: Bureau of Justice Statistics, available at https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf; Beck, A. J., Berzofsky, M., Caspar, R., & Krebs, C. (2013). *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12*. Washington, DC: Bureau of Justice Statistics. Available at: <https://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

³ Coleman, et al. *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, *Int'l Journal of Transgender Health* (2022). Available at: <https://doi.org/10.1080/26895269.2022.2100644>



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perception of their safety and health are taken into account when housed with another person. Transgender prisoners are frequently singled out for violence and these commonsense provisions help ensure that some of our most vulnerable inmates are protected behind bars.

We also appreciate the bill's attention to creating accessible and written records. A distressing number of facilities, and especially those which are privately run, operate in a dangerous grey area with little real oversight and accountability. For vulnerable incarcerated populations, this can be deadly. Data collection relating to sexual orientation and gender identity, records of inmate objections to housing placements, scheduled reassessments of their denials, and ensuring that all incarcerated people have prompt access to their rights is an important first step in improving transparency. It is our hope that you will continue to legislate for increased monitoring and disclosure as it relates to these vulnerable populations, and that accountability and oversight of correctional facilities in the state of Maryland remain important objectives moving forward.

We thank you again for the opportunity to submit this testimony and for your consideration and time.

Sincerely,

Courtney Avant
Legislative Counsel, HRC

pflag_trans_respect_and_dignity_act.pdf

Uploaded by: Nicole Hollywood

Position: FAV



LEGISLATIVE TESTIMONY

Bill: **HB426/SB761 Public Correctional Facilities—Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)**

Organization: PFLAG Salisbury Inc., PO Box 5107, Salisbury Maryland 21802

Submitted by: Nicole Hollywood, President of the Board

Position: **FAVORABLE**

SALISBURY PFLAG SUPPORTS THE TRANSGENDER RESPECT AND DIGNITY ACT

I am submitting this testimony in FAVOR of HB426/SB761 on behalf of PFLAG Salisbury, the Salisbury, Maryland Chapter of PFLAG National.

Transgender, nonbinary, and intersex inmates are disproportionately represented in the criminal justice system, with nearly one out of six (16 percent) trans people of all ethnicities are incarcerated during their lifetimes—a rate that skyrockets to nearly one in two (47 percent) among Black trans people. Transgender and gender non-conforming inmates are often victims of gender-based and sexual violence, with the Bureau of Justice Statistics at the Department of Justice reporting that 40 percent of incarcerated transgender people have been sexually assaulted—a statistic that is more than ten times the general prison population rate. Further, the National Center for Trans Equality reports that transgender people are five times as likely to be sexually assaulted by prison staff.

Incarcerated members of the transgender community also often face difficulties accessing gender-affirming care which the DOJ explained in a 2021 Statement of Interest in *Diamond v. Ward* violates the U.S. Constitution and the Eighth Amendment's prohibition on cruel and unusual punishment when they refuse trans women placements at female facilities when needed for safety, or deny trans people gender dysphoria care beyond hormone therapy without conducting individualized assessments of their needs

HB426/SB761 would require the creation of anti-discrimination policies and explicitly prohibit discrimination of transgender, nonbinary, and intersex inmates. It would also codify the treatment of transgender, nonbinary, and intersex inmates, including their housing placement, in ways that align with their gender identity.

These protections and procedures would improve the experiences of transgender, nonbinary, and

intersex inmates in the Maryland prison system, and particularly Black transgender, nonbinary, and intersex inmates, helping to ensure their safety. Because of this, PFLAG Salisbury Inc. supports HB 426 and SB761 and recommends a FAVORABLE report in committee.

SB 761_ HB 426 Written Testimony.docx (1).pdf

Uploaded by: Nicole Hanson- Mundell

Position: FAV



TESTIMONY IN SUPPORT OF SB 761/ HB 426

Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

TO: Chair and Members of the Chair and Members of the [Judicial Proceedings](#) and [Judiciary](#)

Out for Justice [supports SB 761/ HB 426](#)

This bill allows LGBTQ individuals to request transfer to gender appropriate facilities based on their housing preferences and overall safety concerns. Further this bill prohibits discrimination from an employee of a correctional facility against inmates on the basis of certain protected classes, including but not limited to ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity.

In 1994, the US Supreme Court ruled that failing to protect Transgender people in custody is unconstitutional and found deliberately failing to protect incarcerated trans people from abuse or violence behind bars qualifies as cruel and unusual punishment. Nearly 30 years after that landmark Supreme Court decision many individuals that identify as Transgender are still under imminent danger while incarcerated. Far too many are raped and sexually assaulted by others prisoners and abused by correctional officers while in custody. Our members have shared that they could not report the assaults to corrections officers, for fear of retribution, including being thrown into solitary confinement. Despite robust evidence that trans women are at a significantly higher risk of abuse and assault than the general prison population, the vast majority of incarcerated trans people in America are still housed in facilities based on the sex they were assigned at birth.

In Maryland, being transgender in public can lead to an arrest under so-called “Walking While Trans” laws: anti-loitering codes officially used to target sex workers, which in practice target primarily trans women of color regardless of whether they are sex workers. Transgender people are disproportionately impacted by the criminal justice system to begin with, incarcerated at significantly higher rates than other groups. The rate of incarceration for transgender people was double that of the nation-wide rate of incarceration, and about 10 times higher for Black transgender women.

OFJ members have shared the “inhumane” and “disgraceful” treatment of trans women in custody often starts immediately upon the intake process. Trans prisoners are over nine times more likely than the prison average to be assaulted or abused by fellow prisoners, and over five times more likely to be assaulted or abused by facility staff, according to a national survey conducted by the National Center for Transgender Equality



Opponents of housing people in custody according to gender identity argue that men could falsely claim to be transgender so they are housed with women they can then assault. There is no evidence to support that this happens, while there is overwhelming evidence that trans women in men's prisons are being sexually assaulted at exponentially higher rates than the general incarcerated population.

In 2003, President George W. Bush signed the Prison Rape Elimination Act, PREA, into law. This legislation required the Department of Justice to develop federal rules for prisons and jails aimed at preventing and eliminating sexual assault and rape of prisoners. The DOJ issued those PREA Standards in 2012, which still stand today.

PREA Standards state that prison staff "must consider [housing assignments] on a case-by-case basis," and not simply on the basis of a person's "genital status." Additionally the standards state "serious consideration" should be given to an incarcerated person's "own views regarding his or her own safety."

In practice, these standards are not protecting our Transgender loved ones while incarcerated regardless of request and advocacy. Maryland statute is required to protect our citizens behind the wall.

We respectfully urge a **favorable** report on SB 761/ HB 426 .

Written Testimony in Support of SB 761.pdf

Uploaded by: Rebecca Walker-Keegan

Position: FAV

**Testimony in Support of Senate Bill 761 (Favorable)
Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates
(Transgender Respect, Agency, and Dignity Act)**

To: Senator William C. Smith, Jr., Chair, and Members of the Senate Judicial Proceedings Committee

From: Elizabeth Alfonso and Rebecca Walker-Keegan, Student Attorneys, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201 (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: March 14, 2023

We are student attorneys in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents individuals serving life sentences in Maryland prisons for crimes they committed as children or emerging adults. The Clinic supports Senate Bill 761, which seeks to afford incarcerated transgender, nonbinary, and intersex people their human right to be protected from discrimination and violence.

Individuals are not sentenced to incarceration to be victimized by sexual violence. However, transwomen in men’s prisons are substantially more likely to be subjected to rape or sexual assault than the general population.¹ Moreover, issues with housing for transgender, nonbinary, and intersex people regularly lead to them being placed in segregation for prolonged periods of time despite having committed no offense within the prison. The United Nations has declared extended segregation to be torture.² Further, when transgender, nonbinary, and intersex people are placed in segregation, they can lose access to needed medical care, even though the United States Supreme Court has long declared that incarcerated individuals have a right to medical care pursuant to the Eighth Amendment.³

¹ See Valerio Bacak et al., *Gender-Affirming Housing In Jails and Prisons*, 5 LANCET PUB. HEALTH e373, e373 (2020), <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2820%2930100-6> (The prevalence of sexual assault among transgender women in men’s prisons is 13 times greater than the rate for cisgender men); NATIONAL CENTER FOR TRANSGENDER EQUALITY, LGBTQ PEOPLE BEHIND BARS: A GUIDE TO UNDERSTANDING THE ISSUES FACING TRANSGENDER PRISONERS AND THEIR LEGAL RIGHTS (2018), <https://transequality.org/sites/default/files/docs/resources/TransgenderPeopleBehindBars.pdf> (Incarcerated transgender people are nearly 10 times more likely to be sexually assaulted than the general population, with an estimated 40% of transgender people in state and federal prisons reporting a sexual assault in the previous year); Beth Schwartzapfel, *DOJ Tells Prisons To Put Safety First in Housing Transgender Inmates*, THE MARSHALL PROJECT (Mar. 29, 2016), <https://www.themarshallproject.org/2016/03/29/doj-tells-prisons-to-put-safety-first-in-housing-transgender-inmates> (reporting the Bureau of Justice Statistics finding that, in the preceding year, transgender prisoners had been sexually assaulted at a rate more than eight times higher than state prisoners generally).

² *Solitary confinement should be banned in most cases, UN expert says*, UN NEWS (Oct. 18, 2011), <https://news.un.org/en/story/2011/10/392012>.

³ See *Estelle v. Gamble*, 429 U.S. 97, 103 (1976) (“[Eighth Amendment] principles establish the government’s obligation to provide medical care for those whom it is punishing by incarceration.”).

It is dangerous to be a transgender person in prison. Studies have found that transwomen in prison are ten- to thirteen-times more likely to be sexually assaulted than the general population.⁴ Transwomen are also likely to be coerced into prostitution while in prison, exchanging sex for protection.⁵

In addition to the physical dangers of existing as a transgender person in prison, transgender people are also often denied the basic human right of being identified with their correct name and gender designation. Studies of transgender youth have found that using a transgender individual's chosen name dramatically decreases the risk of suicidal behavior.⁶ Transgender people who obtain gender-concordant identity documents have reduced suicidal ideations as well as improved mental health.⁷ Similarly, transgender people who are subjected to identity nonaffirmation, such as incorrect pronoun use, have significantly higher odds of experiencing depression and suicidal ideation.⁸ Thus, both denying transgender people basic safety in prison and preventing them their right to live according to their identity puts their lives in peril.

Correctional facilities are obligated to protect the people they incarcerate. Senate Bill 761 would provide Maryland's prisons and jails with a comprehensive system to properly process, place, and treat transgender, nonbinary, and intersex inmates in accord with their human and constitutional rights. This bill is a necessary step to break the cycles of violence and indignity that transgender, nonbinary, and intersex inmates face while incarcerated. For these reasons, we ask for a favorable report on this bill.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

⁴ E.g., Allen J. Beck, Ph. D., U.S. DEP'T JUST., BUREAU JUST. STAT., SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES, 2011-12, SUPPLEMENTAL TABLES: PREVALENCE OF SEXUAL VICTIMIZATION AMONG TRANSGENDER ADULT INMATES (2014).

⁵ Elida Ledesma & Chandra L. Ford, *Health Implications of Housing Assignments for Incarcerated Transgender Women*, 110(5) AM. J. PUB. HEALTH 650, 652 (2020).

⁶ E.g., Sarah Steadman, "That Name is Dead to Me": Reforming Name Change Laws to Protect Transgender and Nonbinary Youth, 55 U. MICH. J.L. REFORM 1, 5 (2021).

⁷ Ayden I Scheim et al., *Gender-concordant identity documents and mental health among transgender adults in the USA: a cross-sectional study*, 5 LANCET PUB. HEALTH e196, e200-02 (2020).

⁸ Nicholas Parr & Bethany Grace Howe, *Heterogeneity of Transgender Nonaffirmation Microaggressions and Their Association With Depression Symptoms and Suicidality Among Transgender Persons*, 6 PSYCH. SEXUAL ORIENTATION & GENDER DIVERSITY 461, 461 (2019).

SB 761_Disability Rights Maryland_Fav.pdf

Uploaded by: Sam Williamson

Position: FAV

SUPPORT – SB 761

Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates
Transgender Respect, Agency, and Dignity Act
Judicial Proceedings Committee
March 15, 2023

Chair Smith and Members of the Committee,

Thank you for the opportunity to provide written testimony in support of Senate Bill 761, on behalf of Disability Rights Maryland (DRM). DRM is a legal nonprofit and Maryland’s federally designated Protection & Advocacy agency. DRM is dedicated to advancing the civil rights of people with disabilities.

This bill provides important protections that will help reduce incidents of violence in Maryland prisons. When transgender people are incarcerated, they “are subjected to constant violence by both prison staff and other prisoners.”¹ DRM has received reports of these abuses. In our role as a monitoring agency, we have learned of transgender women being placed in cells with individuals who are known to be violent towards transgender women. When the transgender women refuse such violent housing, they are punished and placed into administrative segregation. They are allowed out of their cells for one hour per day; they lose access to programming, classes and jobs; and they may lose accumulated good conduct credits.

The conditions in our carceral institutions result in “high levels of stress, fear, social isolation, infectious disease, and violence exposure, all of which can increase disability risks.”² Maryland prison conditions punish incarcerated individuals, especially transgender women, by damaging their health and wellbeing. SB 761 will reduce some of these unjustifiable impacts.

California’s Transgender Respect, Agency, and Dignity Act

Maryland’s bill was originally based on a California bill of the same name. The California law has been an important step forward in protecting incarcerated transgender persons, and it has not led to disarray or an increase in violence in California prisons. California has approximately 1,671 incarcerated transgender, nonbinary, and intersex individuals. In the two years since the California bill was implemented, there have only been 353 housing transfer requests, and only 13% have been approved (47 approvals).³

¹ *Coming Out of Concrete Closets: A Report on Black & Pink’s National LGBTQ Prisoner Survey*, Jason Lydon, *et.al.* at 3 (2015), <https://www.issuelab.org/resources/23129/23129.pdf>.

² *The Links Between Disability, Incarceration, and Social Exclusion*, Laurin Bixby *et al.*, (Oct. 2022), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2022.00495>.

³ *Senate Bill 132 FAQs*, California Department of Corrections and Rehabilitation, <https://www.cdcr.ca.gov/prea/sb-132-faqs/>.

A group known for its anti-transgender “mis- and disinformation”⁴ sued to challenge the California law. The purported support for this lawsuit includes “false allegations and rumors,” in the words of an incarcerated woman who was misconstrued as a victim of sexual assault. In a declaration sworn under penalty of perjury, the woman stated that a transgender individual took care of her when she was sick, and afterwards, false rumors spread about a sexual assault. Due to the unfounded rumors, the transgender person is “being held indefinitely in isolation,” despite the woman’s repeated assertions that she was not harmed.⁵

In contrast to those rumors, the violence faced by incarcerated transgender women is real. According to another filing in the lawsuit, one transgender woman has faced more than 30 incidents of sexual violence while incarcerated. Another transgender woman was attacked by multiple individuals, who broke bones in her jaw and neck. A different attack cost that same transgender woman 8 teeth.⁶

There is a pending motion to dismiss the California lawsuit.⁷

Improvements to Maryland’s Bill

Given some of the rhetoric surrounding the California bill, some Maryland legislators expressed concern about potential risks to non-transgender women.

This year’s bill has made several key changes to respond to those concerns:

1. The bill now includes a definition of “gender identity,” consistent with the definition used throughout Maryland’s Code. The definition requires that gender identity be “consistent and uniform” or have “other evidence that the gender identity is sincerely held as part of the person's core identity.” This definition makes it even less likely that a non-transgender person would risk the violence imposed on who are perceived as transgender in order to access a housing transfer.
2. The bill no longer states that an incarcerated person shall be housed according to open-ended “preference.” Now, housing is only permitted in accordance with either gender identity or sex assigned at birth. In other words, the person must have a sincerely held transgender identity in order to request housing that does not align with sex assigned at birth.
3. The bill tightens up language permitting the prison to deny transfer requests. The bill now explicitly states that requests may be denied based on a “risk that the inmate may commit abuse.”

⁴ *Far-Right Groups Flood State Legislatures with Anti-Trans Bills Targeting Children*, Southern Poverty Law Center (April 26, 2021), <https://www.splcenter.org/hatewatch/2021/04/26/far-right-groups-flood-state-legislatures-anti-trans-bills-targeting-children>.

⁵ Declaration of Asia Davis, Docket No. 43-3, Case No. 1:21-cv-01657-JLT-HBT, *Chandler v. California Department of Corrections and Rehabilitation*, https://www.lambdalegal.org/sites/default/files/legal-docs/downloads/2022-07-05_dkt_043-3_exhibit_b.pdf.

⁶ Motion to Intervene, Docket No. 19-1, Case No. 1:21-cv-01657-JLT-HBT, *Chandler v. California Department of Corrections and Rehabilitation*, <https://www.lambdalegal.org/sites/default/files/legal-docs/downloads/19-1.pdf>.

⁷ *Chandler v. California Department of Corrections and Rehabilitation*, Lambda Legal, <https://www.lambdalegal.org/in-court/cases/chandler-v-california-department-of-corrections-and-rehabilitation>.

These changes strike the appropriate balance to ensure additional safety for all incarcerated Marylanders.

DRM urges the Committee to issue a favorable report on SB 761. Thank you for your consideration. Please contact Sam Williamson at 410-727-6352 or SamW@DisabilityRightsMd.org with any questions.

SB 761 - MoCo_Morningstar_FAV (GA 23).pdf

Uploaded by: Sara Morningstar

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 761

DATE: March 15, 2023

SPONSOR: Senator Carter

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Sara Morningstar (Sara.Morningstar@montgomerycountymd.gov)

POSITION: SUPPORT

Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

Senate Bill 761 establishes gender-appropriate housing placement and search procedures during the initial intake of an inmate to a Maryland correctional facility. The facility must implement a written policy prohibiting discrimination on the basis of an inmate's race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs. A private setting must be provided during the initial intake process, at which time a corrections officer will inquire about an inmate's gender identity and their preferred pronouns. The inmate must be informed, verbally and in writing, of their rights, and that the refusal to disclose required information will not be cause for discipline. Montgomery County supports this legislation.

Current law prohibits discrimination based on gender identity or sexual orientation. Despite what is on the books, during their incarceration, transgender inmates often endure high levels of harsh and violent treatment from both corrections staff and fellow inmates and suffer grueling periods of isolation. This must be acknowledged as something that will not be tolerated in Maryland and, under Senate Bill 761, uniform standards and procedures will be implemented to stop it.

Montgomery County urges the Judicial Proceedings Committee to adopt a favorable report on Senate Bill 761 that will help to restore dignity to the lives of transgender prisoners in Maryland.

Letter for SB 761.pdf

Uploaded by: Brandon Foster

Position: UNF



Office of the Sheriff

Charles County, Maryland

Headquarters
6915 Crain Hwy - P.O. Box 189
La Plata, Maryland 20646-0189
301-609-6400



An Internationally
Accredited Agency

SB 761

Correctional Facilities- Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: March 10, 2023

FROM: Brandon Foster, Director of
Corrections Charles County Detention
Center

Local jails in Maryland have a constitutional obligation to ensure the equitable treatment of all inmates and to provide for their safety and health. Our policies and procedures reflect those obligations, and we strive to accomplish these goals. The limits and requirements of this bill are a form of micromanagement that would make it very difficult to meet the goal of safe and effective case management.

Correctional managers are very aware of transgender issues related to incarceration. There is generally more awareness of transgender issues today than there ever has been. For correctional managers, these issues are much more complex than just how one identifies or their preferred honorifics and pronouns. Our policies reflect the recent decision by the 4th Federal Circuit Court whereby the decision for placement of an inmate cannot solely be based on a person's genitalia. Case management teams must objectively consider several factors when classifying and placing inmates. An inmate's safety is priority in making these critical decisions. A good classification policy considers safety, health, vulnerability, current criminal charges, past criminal and behavioral history, gender identity, and many other factors. Unfortunately, we could not meet our constitutional obligations if these decisions were left almost entirely to an inmate's preference.

There are parts of this bill that where we agree. We agree that the definition of "gender identity" should be consistent with Section 20-101 of the State Government Article. We also agree with Section 9-618 of this bill which requires correctional facilities to adopt non-discriminatory policies. And I can assure you that they already exist in jails and prison in Maryland.

Parts of this bill are ambiguous as to whether it applies to local facilities, state facilities, or both. Title 9 of the Correctional Services Article generally applies to both. It appears Section 9-619 of this bill applies to locals, but Section 9-620 seems to only apply to state facilities. I suggest that some of the language must be clarified.

I believe it is too soon to pass legislation on this issue when we give it real-world consideration. There is considerable ongoing litigation related to these issues. Passing this bill would most certainly lead to an explosion of litigation in Maryland. Some of the legal questions that remain are:

- Is it a constitutional violation to place an inmate, not according to preference, but according to several other legitimate risk factors?
- Do officers have a legitimate harassment complaint when required to search someone of the opposite biological sex?
- Is it a constitutional violation under the 1st amendment to compel speech by officers to use the preferred pronouns and honorifics of an inmate?

I expect that the courts, and possibly the U.S. Supreme Court, may make future rulings on these issues. In the meantime, it is probably unwise to pass legislation that would likely lead to a flood of litigation and could cost the State and local governments in Maryland millions.

For these reasons, I ask this committee to give SB 761 an unfavorable report.

SB0761-2023 Corrections - Transgender housing fina

Uploaded by: Ella Ennis

Position: UNF



Ella Ennis, Legislative Chairman
Maryland Federation of Republican Women
PO Box 6040, Annapolis MD 21401
Email: eee437@comcast.net

The Honorable William Smith, Chairman
And Members of the Judicial Proceedings Committee
Senate of Maryland
Annapolis, Maryland 21401

RE: **SB 761** – Correctional Facilities – Transgender, Nonbinary and Intersex Inmates – **OPPOSED**

Dear Chairman Smith and Committee Members,

The 1,426 members of the Maryland Federation of Republican Women strongly oppose SB 761 that will allow biological male prisoners who identify as female to be housed in a women's correctional facility in a cell with a biological woman. This legislation places women inmates in serious danger of attack.

Women inmates deserve to be treated with respect and to be housed in a safe manner. There is no safety for a biological woman placed in a cell with a biological male choosing to identify as female. Privacy is very limited in a prison. Showers and toilets are not private. Any inmate is vulnerable in these circumstances. Adding an additional danger by housing biological males in a women's facility is unacceptable and unsafe. It is not difficult to see why male inmates would choose to make such a declaration and be housed in a women's facility. In the State of Washington, this practice has led to women being attacked and resulted in at least one forced pregnancy.

Treating transgender, non-binary, or intersex individuals with respect does not require housing them in a women's prison. Separate housing facilities specifically for transgender, nonbinary, and intersex inmates is a safe alternative for all inmates. Housing them in a correctional facility for inmates other than their biological gender is not the answer.

There is a distinct movement to degrade the unique characteristics and biology of women, and to remove all separate and safe places for women. SB 761 would do just that – wipe out any safety for women inmates in Maryland correctional facilities.

Please give **SB 761** an **UNFAVORABLE** report.

Sincerely,
Ella Ennis
Legislative Chairman
Maryland Federation of Republican Women

MCAA SB761 Transgender, Nonbinary, and Intersex In

Uploaded by: Mary Ann Thompson

Position: UNF



SB761

Correctional Facilities- Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: January 30, 2023

FROM: MaryAnn Thompson, President
Brandon Foster, Legislative Committee
Lamonte Cooke, Legislative Committee

Impact on Local Detention Center Operations

The Maryland Correctional Administrator's Association (MCAA), an organization comprised of our statewide jail wardens and administrators for the promotion and improvements for best correctional practices, appreciates the opportunity to provide information regarding House Bill 426. HB426 could potentially have substantial adverse impact on local detention center operations. We extend the opportunity to work with jail wardens and administrators to work towards a mutually amicable resolution.

Local Detention Centers in the State of Maryland operate in accordance with Maryland Commission on Correctional Standards which is codified in Title 12 Department of Public Safety and Correctional Services, Subtitle 14 Commission on Correctional Standards. While the Standards Commission is a branch of the Department of Public Safety and Correctional Services (DPSCS), local detention centers do not fall under the operational purview of DPSCS which is referenced in 9-620 (F) (2). HB426 is written in language/interpretation that dictates DPSCS is solely affected and not local detention centers/jurisdictions. DPSCS and local detention centers are colleagues.

(D) STAFF, CONTRACTORS, AND VOLUNTEERS AT A CORRECTIONAL FACILITY SHALL USE THE GENDER PRONOUNS AND HONORIFICS AN INMATE HAS SPECIFIED IN ALL VERBAL AND WRITTEN COMMUNICATIONS WITH OR REGARDING THE INMATE THAT INVOLVE THE USE OF A PRONOUN OR HONORIFIC.

According to online resources, the LGBTIQA community typically uses 72 pronouns. However, pronouns can exceed this number due to the accepted practice of creating pronouns that an

individual wants to be identified by. This could cause the need for additional training to educate staff of pronouns, pronunciations, etc.

Local detention centers not only employ correctional officers but outside vendors/contractors. There is concern how local detention centers will ensure correct pronouns are used by outside vendors/contract personnel who do not have the ability to either witness or read the outcome of the classification process (which is in a private and confidential setting).

(C) SUBJECT TO SUBSECTION (F) OF THIS SECTION, AN INMATE SHALL BE HOUSED AT A CORRECTIONAL FACILITY DESIGNATED FOR MEN OR WOMEN BASED ON THE INMATE'S PREFERENCE, INCLUDING RESIDENTIAL TREATMENT FACILITIES MANAGED BY THE DEPARTMENT IF THE INMATE IS ELIGIBLE.

MCCS Standard .01 Q Separation of Sexes mandates "The managing official shall provide living quarters for male and female inmates which are separate and distinct to ensure privacy ... maintain individual integrity and ensure facility order and security." Additionally, .05 Inmate Rights B. Protection from Abuse requires local detention centers to have a "policy which establishes inmate protection from abuse and harassment."

It is a concern that housing an inmate based on the inmate's preference could potentially cause a rise in sexual assaults, Prison Rape Elimination Act (PREA) violations, etc. Heterosexual male and female inmates could use this bill, or the Department's policy based off this bill, to obtain housing with the opposite sex. This potentially allows for very serious problems including civil tort, PREA investigation and liabilities, and finally potential criminal investigations/convictions related to sexual assaults.

(E) IF AN INMATE IS LAWFULLY SEARCHED, THE INMATE SHALL BE SEARCHED ACCORDING TO THE SEARCH POLICY FOR THE INMATE'S GENDER IDENTITY OR ACCORDING TO THE GENDER DESIGNATION OF THE FACILITY IN WHICH THE INMATE IS HOUSED, BASED ON THE INMATE'S PREFERENCE.

This could potentially cause male staff to strip search biologically female inmates and female staff members to strip search biologically male inmates. This violates search procedures as well as the Maryland Commission on Correctional Standards. 01 Standards: Security and Inmate Control. J. Search Procedures (11) Strip searches – See records, if any. Searches must be in private and performed by the same sex unless there is an emergency. When correctional staff was hired, it was with the understanding when strip searches were conducted the search would be performed on inmates who were biologically the same sex. HB426 places correctional officers in a potentially precarious libelous situation.

(D) WHEN CONSIDERING A HOUSING DECISION WITHIN A FACILITY, INCLUDING GRANTING SINGLE CELL STATUS, HOUSING AN INMATE WITH ANOTHER INMATE OF THE INMATE'S CHOICE, OR REMOVING ANOTHER INMATE WHO POSES A THREAT TO THE INMATE, STAFF SHALL CONSIDER THE INMATE'S PERCEPTION OF HEALTH AND SAFETY.

Maryland State Standard .06 Classification requires all inmates to be properly classified for the safety and security of the offender as well as the overall safety of the facility. When considering a

housing decision, HB426 mandates the facility to grant a single cell while a single cell may not be available based on the available cell capacity versus facility census. In other words, most offenders would like to be single celled; however, the reality is there are not enough single cells to be able to grant to all offenders. Housing an inmate with inmate of their choice would be problematic if the inmate selects a cell mate that is not compatible based on security level. Staff shall consider the inmate's "Perception of Health and Safety" when making these decisions. This language is too vague since perception is a mental impression; therefore, this bill language needs greater clarity.

Lastly, HB426 is well intentioned; however, does not take in to account those inmates/detainees who try to manipulate situations for their own benefit. As an example, allowing the choice of housing void of including language that references security risk and classification leaves local detention centers to have to articulate this reasoning in a separate process every time, as well be forced to go through the entire process again and again "Any time" an inmate raises a concern. The operational mandate of forcing all staff, contractors, and volunteers to address inmates by their chosen gender identity, which they are also allowed to change at any time, is also setting up local detention centers to fail. This does not allow for less restrictive practices such as directing staff to use non-gender specific pronouns when referring to inmates/detainees or just directing staff to refer to inmates/detainees in a manner referencing "inmate/detainee" and their last name. It is impossible with so many staff and overtime, and various individuals coming and going that everyone would possibly know how all inmates/detainees identified themselves.

HB426 is written from a perspective everyone is acting with good intentions; however, this misses the mark for those that do not, which unfortunately encompass a lot of individuals that are housed inside our correctional facilities and jails.

The opportunity to provide information in regards this legislation is greatly appreciated and the local detention centers look forward to discussion and welcome opportunities to ensure the dignity, safety, and security of all entrusted to our care.

HB426_SB761 - Transgender Respect Act.pdf

Uploaded by: Jennifer Beskid

Position: INFO



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

45 Calvert Street, Suite 7A, Annapolis, MD 21401
(443) 240-8696 • www.dpscs.maryland.gov

STATE OF MARYLAND

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR

CAROLYN J. SCRUGGS
SECRETARY

CHRISTINA LENTZ
ACTING
DEPUTY SECRETARY
ADMINISTRATION

ANNIE D. HARVEY
ACTING
DEPUTY SECRETARY
OPERATIONS

VACANT
ASSISTANT SECRETARY

JENNIFER A. BESKID
DIRECTOR

BILL: SENATE BILL 761

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill adds a reporting requirement to require data on the gender identity of incarcerated individuals, and the number of requests for housing transfers. SB 761 also adds several sections to the Correctional Services Article that prohibit employees from discriminating against incarcerated individuals regarding programming and services as well as the incarcerated individual's demographics, requires the managing official of a correctional facility to implement a written policy prohibiting discrimination of incarcerated individuals regarding programming and services or the incarcerated individual's demographics, requires privacy for conducting certain aspects of intake and classification, requires staff and contractors at correctional facilities to use gender pronouns or honorifics in verbal and written communications, and specifies housing and search practices.

COMMENTS:

The Department operates the Division of Correction (DOC), the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).

- DOC operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer.
- DPDS operates the Baltimore City Pretrial Complex which houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
- DPP supervises parolees, probationers and those on mandatory release from correctional facilities.

Reporting

- The bill would require the Department to report the gender identity of an individual. The Department does not track gender identity since it is self-disclosed, and any data reporting will not be an accurate measure.
- The Department may report housing as cohort data only, not by facility, as it may risk identifying the individual and may not meet the standards of disclosing sensitive data.

Discrimination

- The Department's policy on Standards of Conduct states "An employee shall be fair, firm, and impartial in relationships with inmates and offenders. The employee shall maintain a humane, objective and professional interest in the welfare of inmates and clients in order to contribute to the success of the programs of the Department.
- Additionally, the Standards of Conduct policy specifies, "An employee found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, handicap, age or sex (including sexual harassment) will be subject to disciplinary action up to and including termination depending on the degree of the infraction." **SB 761 including ethnicity, gender identity, or sexual orientation can be included in policy without legislation.**

Gender Identity

- The Department has been proactive in its efforts to reduce victimization of the incarcerated population and under the Assessment for Risk of Sexual Victimization and Abusiveness policy, a screening instrument is utilized as part of the intake and facility transfer process and at other times deemed appropriate to assess each inmate's risk for being sexually abused or being sexually abusive toward other inmates.
- The bill proposes that housing decisions shall consider the incarcerated individual's perception of safety. Incarcerated individuals are provided the opportunity to participate in the classification case management process including presenting opinions, preferences, and requests for appropriate classification assignments in accordance with the Department's policy on Inmate Rights.
- For the safety and security of ALL incarcerated individuals, there is a classification process the Department adheres to for the purpose of ensuring the individual is housed properly and does not pose a safety risk to the individual, to other individuals, or to the facility as a whole. An incarcerated individual's classification is reviewed at minimum every 12 months.
- All incarcerated individuals must be kept safe from victimization, harassment and assault. Allowing an individual to choose housing based solely on their preference as an LGBTQ+ individual removes from the Department the ability to ensure the safety and security of ALL individuals.

- SB 761 would require an incarcerated individual to be searched according to the search policy for the individual's gender. This already exists in policy for individuals who identify as transgender. After meeting with the designated medical/mental health provider, a search exemption card is issued and the individual is able to determine the gender of an officer who is required to perform a search.
- SB 761 would require all staff, contractors, and volunteers at a correctional facility to address an incarcerated individual in a manner consistent with the inmate's gender identity. This preference for how an incarcerated individual wishes to be addressed could be covered in training and appropriate signage could be displayed; however, the Department could not enforce this mandate for every single individual entering a facility - especially contractors or volunteers.
 - For example an emergency contractor that comes in at 6:00 p.m. on a Saturday for a water emergency could come into contact with a transgender individual in a male facility and refer to the individual as "sir" given that an escort officer would not be providing the preferred pronoun for every incarcerated individual with whom the contractor crosses paths.
 - This would result in a significant increase in the number of Administrative Remedy Procedure (ARP) complaints, ARP appeals to the Commissioner, Inmate Grievance Office (IGO) complaints and civil rights complaints filed in the United States District Court for the District of Maryland.
- SB 761 seeks to establish LGBTQ+ individuals in the Department's facilities as a protected class that is exclusive of other protected classes such as those with intellectual or developmental disabilities. The Department is responsible for ensuring the security, health, and safety of EVERY individual in its custody. Existing policies and procedures are in place to ensure that all incarcerated individuals are treated fairly and with respect.
- The federal Prison Rape Elimination Act (PREA) was enacted to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape. National standards were developed for implementation by federal, state, and local correctional organizations intended to provide comprehensive guidelines for preventing, detecting, and responding to incidents of sexual abuse involving inmates in a confinement facility.
- Pursuant to PREA, all correctional facilities are audited to ensure compliance with the national standards. The Department's

correctional facilities are fully compliant with PREA standards, and the required annual report summarizing the audit findings and number of complaints investigated can be found on the Department's website. PREA protects ALL incarcerated individuals against sexual abuse.

- SB 761 would prohibit the Department from placing an LGBTQ+ individual in restrictive housing. This implies that an LGBTQ+ individual is not capable of violently assaulting another, attempting to escape, or threatening the security and/or operations of the correctional facilities - the reasons for which an incarcerated individual is placed in restrictive housing.

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully urges the Committee to consider this information as it deliberates on Senate Bill 761.

2022 Annual Report - Maryland Commission on LGBTQ

Uploaded by: Jeremy Browning

Position: INFO



Maryland Commission on LGBTQ Affairs



2022 Annual Report

Maryland Commission on LGBTQ Affairs
Governor's Office of Community Initiatives
100 Community Place
Crownsville, MD 21032



LARRY HOGAN
GOVERNOR

STATE OF MARYLAND
OFFICE OF THE GOVERNOR

Maryland State House
100 State Circle
Annapolis, MD 21401

Dear Marylanders,

I am pleased to share with you the 2022 Maryland Commission on LGBTQ Affairs Annual Report.

Created by the Maryland General Assembly in 2021 and now part of the Governor's Office of Community Initiatives, the Maryland Commission on LGBTQ Affairs has been hard at work over the past year selecting leadership and establishing bylaws and subcommittees. These critical first steps will help enable the commission's core work in assessing the challenges that Maryland's LGBTQ+ communities face and delivering the voices of LGBTQ Marylanders to leadership in state government.

I would like to recognize the leadership of Chair Joe Toolan, Vice Chair Joseph M. Clapsaddle, and Administrative Director Jeremy Browning who, supported by their fellow commissioners, led the commission during a productive first year.

On behalf of the State of Maryland, I want to sincerely thank the Maryland Commission on LGBTQ Affairs for their diligent work to improve the quality of life among our nearly half million LGBTQ+ Maryland residents, and I look forward to seeing the commission's continued progress in the years to come.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry Hogan".

Larry Hogan
Governor

Message from the Executive Director of the Governor's Office of Community Initiatives

Dear Friends:

It is with pleasure that I present the first annual report for the Maryland Commission on LGBTQ Affairs.

The Maryland Commission on LGBTQ Affairs is the newest commission under the Governor's Office of Community Initiatives, which connects Marylanders to economic, volunteer, and human service opportunities through government, business, and nonprofit partners. Through more than 700 community-based engagements every year, we connect citizens across the state to the executive branch of Maryland's government, raising their voices and expanding opportunities to help more directly address their needs.

Created by the 2021 Maryland General Assembly, the commission has hit the ground running, beginning the critical work of advocating for solutions to help address challenges facing Maryland's LGBTQIA+ community. Commissioners are to be commended for their hard work and sense of service—their dedication brought the commission to fruition this year and will undoubtedly propel its work going forward.

I would also like to offer my sincere thanks and congratulations to chair Joe Toolan, vice chair Joseph M. Clapsaddle, and administrative director Jeremy Browning for a productive and successful first year. With continued perseverance and excellence in leadership, I look forward to seeing the commission continue to meet its goals and directives in service of making a better state for all Marylanders.

Sincerely,



Steven J. McAdams
Executive Director
Governor's Office of Community Initiatives

Message from the Chair of the Maryland Commission on LGBTQ Affairs

Dear Community Members and Friends,

I am pleased to present the inaugural Maryland Commission on LGBTQ Affairs Annual Report. Over the past year, our commission has made important and historic strides to assess and address the challenges facing Maryland's LGBTQIA+ communities. We know this year has brought challenges for many members of our community, but we are optimistic about the road ahead and we are grateful for the many partnerships that we continue to forge in support of our work across the entire state.

I first want to thank the Governor Hogan administration, and Executive Director of the Governor's Office of Community Initiatives Steven J. McAdams for all their support as we built the commission from the ground up in our first year.

I would also like to thank commission vice chair Joseph Clapsaddle and our administrative director, Jeremy Browning, for their leadership and contribution to our growth.

Finally, I would like to recognize Delegate Lili Qi, whose work helped establish this commission and who endeavors daily to raise the voices of LGBTQIA+ Marylanders.

Our commission brings together members from across the state who have many different identities and backgrounds, representing our vibrant and diverse community. We are thankful for their passionate perspective, insight, and contribution to our work. As we continue to grow, learn, and educate one another, we remain steadfast in our commitment to raising the voices of LGBTQIA+ Marylanders as we work to build a stronger, safer, more inclusive state for all.

It is an honor and privilege to serve as chair of the Maryland Commission on LGBTQ Affairs. On behalf of the commission, we look forward to continuing to serve Maryland's LGBTQIA+ community for many years to come.

Sincerely,



Joseph Toolan (he/him)
Chair
Maryland Commission on LGBTQ Affairs

Message from the Administrative Director of the Maryland Commission on LGBTQ Affairs

Dear Fellow Marylanders:

It is my great honor and privilege to serve as the Administrative Director of the Maryland Commission on LGBTQ Affairs and I am pleased to present this first annual report.

The Maryland Commission on LGBTQ Affairs was created by the 2021 Maryland General Assembly to provide a coordinated approach for addressing the distinct needs of our lesbian, gay, bisexual, transgender, queer, questioning, intersex, agender, aromantic, asexual (LGBTQIA+) community members throughout Maryland.

We are working towards our goal of supporting a more inclusive and equitable state by raising awareness about LGBTQIA+ issues, developing policy recommendations and offering technical assistance to Maryland agencies as they become increasingly aware of policies impacting our community.

The Maryland Commission on LGBTQ Affairs is the only state agency dedicated solely to building awareness and advocating for our LGBTQIA+ community. During my first year guiding the commission, I have sought to create a strong foundation by building relationships with state agencies, nonprofits, policy makers, community partners and leaders to ensure that the commission can be impactful and effective.

I would like to thank Governor Hogan and Steve McAdams, executive director of the Governor's Office of Community Initiatives, for setting up and supporting the commission. I would also like to offer special thanks to chair Joe Toolan and vice chair Joseph M. Clapsaddle for their dedication and service in this first year. As a result of their efforts and the hard work of our commissioners, we have been able to make progress towards creating a more inclusive and equitable state.

Sincerely,



Jeremy Browning (he/him)
Administrative Director
Maryland Commission on LGBTQ Affairs

Section 1

About the Maryland Commission on LGBTQ Affairs

About the Maryland Commission on LGBTQ Affairs

The Maryland Commission on LGBTQ Affairs is within the Governor's Office of Community Initiatives and was created during the 2021 Maryland General Assembly to:

- Assess challenges facing our LGBTQ community
- Collect data across state agencies on:
 - Implementation of LGBTQ-inclusive policies
 - Complaints alleging discrimination based on sexual orientation or gender identity
- Study and establish best practices for inclusion of LGBTQ individuals and communities
- Offer testimony on issues concerning LGBTQ persons before legislative and administrative bodies
- Act as a clearinghouse for activities to avoid duplication of efforts
- Create surveys and appoint advisory committees

More information about the commission may be found at <https://goci.maryland.gov/lgbtq/>.

Please note, the commission has recommended updates to the legislation to change the name to the Maryland Commission on LGBTQIA+ Affairs.

Commission Meetings

The Maryland Commission on LGBTQ Affairs is required to meet at least four times a year and is subject to the Maryland Open Meetings Act. View upcoming meetings and previously recorded meetings by visiting: <https://goci.maryland.gov/lgbtq/meetings/>

2022 Meetings

- January 3, 2022
- February 8, 2022
- March 14, 2022
- May 2, 2022
- July 11, 2022
- September 19, 2022
- November 7, 2022

The Maryland Commission on LGBTQ Affairs strives to make our meetings as accessible as possible. The commission now provides ASL interpreters and CART live captioning at our meetings. If you need accommodations or assistance, please contact the administrative director at jeremy.browning@maryland.gov.

Timeline: Maryland Commission on LGBTQ Affairs

- **April 12, 2021** - The 2021 Maryland General Assembly passed House Bill 130 sponsored by Delegate Lily Qi that created the Maryland Commission on LGBTQ Affairs in the Governor's Office of Community Initiatives (GOCI).
- **Summer/Fall 2021** - Following the passage of Bill HB 130 the Hogan administration sought to appoint the 15 members of the commission through the advice and consent of the senate.
- **January 3, 2022** - The commission held its first public meeting with 11/15 commissioners seated and present.
- **February 8, 2022** - The commission held a special meeting to elect officers for the calendar year 2022. Joe Toolan was elected as chair and Joseph M. Clapsaddle was elected as vice chair.
- **March 2022** - The remaining four commission seats were filled.
- **June 4, 2022** - The commission participated in the Annapolis Pride Parade and attended Baltimore Trans Pride hosted by Baltimore Safe Haven.
- **July 27, 2022** - Candidates were recommended by the commission and Jeremy Browning was appointed to serve as administrative director of the commission by Governor Hogan.
- **October 2022** - Commissioners and the administrative director attended several events around the state to celebrate LGBTQIA+ History Month.
- **November 7, 2022** - The commission approved by-laws and established policy priorities for the 2023 legislative session.

2022 Maryland Commission on LGBTQ Affairs Commissioners

The 15-member Maryland Commission on LGBTQ Affairs reflects the gender, racial, ethnic and geographic diversity of Maryland. Members are required to know the issues facing the LGBTQ community and advocate for solutions to problems facing the community.

***2022 Commissioners:**

- Joseph L. Toolan, chair (he/him)
- Joseph M. Clapsaddle, vice chair (he/him)
- Sarcia Adkins (she/her)
- Nicholas Augustine (he/him)
- Lee Blinder (they/them)
- Joan B. Bryan (she/her)
- Amit Dhir, NP-C, MBA (he/him)
- Kurt B. Doan, Ed.D (he/him)
- Deborah Dunn, PAC, MBA (she/her)
- Anthony E. Fox (he/him)
- Jabari Lyles (he/they)
- Stephen J. Martin (he/him)
- Margo Quinlan (she/they)
- Mark Ridderhoff, LCSW-C (he/him)
- Rowan Willis-Powell (she/they)

**Commissioners and Officers as of 12/31/2022*

Section 2

Legislative Mandates and Progress

Legislative Mandates and Progress

➤ **Assessing Challenges and Facing Our LGBTQIA+ Community in Maryland**

While progress has been made towards achieving equality and equity across Maryland and the United States, significant work remains. Our LGBTQIA+ community still faces challenges in almost every aspect of daily life from housing, employment, healthcare, and education, while living with increased risks of discrimination, harassment, and violence.

Below are key findings from some of the largest studies that assess challenges faced by our LGBTQIA+ community across the U.S. and within the State of Maryland. The highlighted findings below are merely a snapshot and readers are encouraged to read the full reports referenced to fully understand the challenges facing our LGBTQIA+ community members. Please note, there are many other studies not included in this report that reflect similar challenges facing our LGBTQIA+ communities.

[The Report of the 2015 U.S. Transgender Survey](#) (James et al., 2016, 4-7)

The National Center for Transgender Equality (NCTE) is the nation's leading source of social justice policy advocacy organization devoted to ending discrimination and violence against transgender people. NCTE conducted the 2015 U.S. Transgender Survey (USTS) with 27,715 respondents from across the country. Please note, NCTE repeated the USTS again in fall of 2022 and results will be published in 2023.

“The findings reveal disturbing patterns of mistreatment and discrimination and startling disparities between transgender people in the survey and the U.S. population when it comes to the most basic elements of life, such as finding a job, having a place to live, accessing medical care, and enjoying the support of family and community. Survey respondents also experienced harassment and violence at alarmingly high rates.”

Key Findings:

- **Pervasive mistreatment, harassment, and violence in every aspect of life:** In the year prior to completing the survey, 46% of respondents were verbally harassed and 9% were physically attacked because of being transgender.
- **Severe economic hardship and instability:** There were large disparities between transgender people in the survey and the U.S. population. Nearly one-third (29%) of respondents were living in poverty, compared to 12% in the U.S. population.
- **Harmful effects on physical and mental health:** 39% of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population.

- **The compounding impact of other forms of discrimination:** Transgender people of color experience deeper and broader patterns of discrimination than white respondents and the U.S. population.
- **Increased visibility and growing acceptance:** Despite the undeniable hardships faced by transgender people, respondents' experiences also show some of the positive impacts of growing visibility and acceptance of transgender people in the United States.

[The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth in Our Nation's Schools](#) (Clark et al., 2022, xvi-xviii)

Since 1990, GLSEN has worked to ensure that LGBTQ+ students are able to learn and grow in a school environment free from bullying and harassment. Every two years GLSEN conducts the National School Climate Survey to understand the experiences of LGBTQ+ students.

“Schools nationwide are hostile environments for a distressing number of LGBTQ+ students, the overwhelming majority of whom routinely hear anti-LGBTQ+ language and experience victimization and discrimination at school. As a result, many LGBTQ+ students avoid school activities or miss school entirely.”

Key Findings:

- **School Safety:** 81.8% of LGBTQ+ students in our survey reported feeling unsafe in school because of at least one of their actual or perceived personal characteristics.
- **Anti-LGBTQ+ Remarks at School:** Nearly all LGBTQ+ students (97.0%) heard “gay” used in a negative way (e.g., “that’s so gay”) at school; 68.0% heard these remarks frequently or often, and 93.7% reported that they felt distressed because of this language.
- **Harassment and Assault at School:** 76.1% experienced in-person verbal harassment (e.g., called names or threatened) specifically based on sexual orientation, gender expression, and gender at some point in the past year—60.7% of LGBTQ+ students were verbally harassed based on their sexual orientation, 57.4% based on gender expression, and 51.3% based on gender.
- **Student Reporting of Harassment and Assault Incidents:** 61.5% of LGBTQ+ students who were harassed or assaulted in school did not report the incident to school staff, most commonly (69.6% of students experiencing harassment or assault) because they did not think school staff would do anything about the harassment even if they did report it.
- **Discriminatory School Policies and Practices:** Most LGBTQ+ students (58.9%) had experienced LGBTQ+-related discriminatory policies or practices at school. Some of the most common discriminatory policies and practices experienced by LGBTQ+ students were those that targeted students’ gender, potentially limiting their ability to make gender-affirming choices and negatively impacting their school experience.

[2022 National Survey on LGBTQ Youth Mental Health Maryland](#) (The Trevor Project, 2022, 1-7)

The Trevor Project has a mission to end suicide among LGBTQ young people and conducts annual surveys that provide critical insights into suicide risk faced by LGBTQ young people. The 2022 National Survey on LGBTQ Youth Mental Health is the first to be segmented by all 50 states.

Key Findings:

- **Suicide Risk:** 43% of LGBTQ youth in Maryland seriously considered suicide in the past year, including 49% of transgender and nonbinary youth. 14% of LGBTQ youth in Maryland attempted Suicide in the past year, including 17% of transgender and nonbinary youth.
- **Anxiety & Depression:** 68% of LGBTQ youth in Maryland reported experiencing symptoms of anxiety, including 73% of transgender and nonbinary youth. 53% of LGBTQ Youth in Maryland reported experiencing symptoms of depression, including 60% of transgender and nonbinary youth.
- **Access to care:** 52% of LGBTQ youth in Maryland who wanted mental health care in the past year were not able to get it.

[Department of Homeland Security added the LGBTQI+ community to groups under threat of potential attacks](#)

On November 30, 2022 the Department of Homeland Security added the LGBTQI+ community to their list of groups that could be targets of potential violence.

“The United States remains in a heightened threat environment. Lone offenders and small groups motivated by a range of ideological beliefs and/or personal grievances continue to pose a persistent and lethal threat to the Homeland. Domestic actors and foreign terrorist organizations continue to maintain a visible presence online in attempts to motivate supporters to conduct attacks in the Homeland. Threat actors have recently mobilized to violence, citing factors such as reactions to current events and adherence to violent extremist ideologies. In the coming months, threat actors could exploit several upcoming events to justify or commit acts of violence, including certifications related to the midterm elections, the holiday season and associated large gatherings, the marking of two years since the breach of the U.S. Capitol on January 6, 2021, and potential sociopolitical developments connected to ideological beliefs or personal hostility. Targets of potential violence include public gatherings, faith-based institutions, the LGBTQI+ community, schools, racial and religious minorities, government facilities and personnel, U.S. critical infrastructure, the media, and perceived ideological opponents.”
(Department of Homeland Security, 2022)

➤ **Collecting Data Across State Agencies**

The Maryland Commission on LGBTQ Affairs is mandated to collect data across state agencies on the implementation of LGBTQ-inclusive policies and complaints alleging discrimination based on sexual orientation or gender identity. Initial findings show that many state agencies do not currently collect this type of data and if they do it is not readily available to the commission or the public.

It is important to note that the commission is still in the process of establishing connections with our state agencies and more time is needed to fully understand the data that is collected and available. In this report, the commission will publish the data that has been collected and we encourage all state agencies to connect with the Maryland Commission on LGBTQ Affairs to discuss available data and data collection. Contact administrative director Jeremy Browning at jeremy.browning@maryland.gov.

State Equal Employment Opportunity Complaints

The Maryland Department of Budget and Management [Annual Statewide Equal Employment Opportunity Report - Fiscal Year 2021](#) includes State Equal Employment Opportunity Complaints by agency, basis, issue, and disposition. Basis categories include gender identity, and sexual orientation.

(Maryland Department of Budget and Finance, EEO Office, 2022, 1-97)

The report shows that a total of four (4) complaints were received on the basis of gender identity:

- Three (3) to the Department of Public Safety & Correctional Services
- One (1) to the Maryland Department of Health

The report shows that a total of eight (8) complaints were received on the basis of sexual orientation:

- One (1) to Department of Human Services
- One (1) to Department of Juvenile Services
- Three (3) to the Department of Public Safety & Correctional Services
- Three (3) to the Maryland Department of Health

See full table on next page.

(Maryland Department of Budget and Finance, EEO Office, 2022, 60)

STATEWIDE DISCRIMINATION COMPLAINTS BY AGENCY, BASIS, ISSUE AND DISPOSITION — FISCAL YEAR 2021

Agency	Agency Employees	Basis*														Issue*						Disposition*																												
		External	Internal	Other	ADA	Age	Ancestry	Color	Creed	Disability	Marital Status	National Origin	Race	Religious Affiliation	Sex/Gender	Gender Identity	Sexual Orientation	Harassment	Sexual Harassment	Retaliation	Other	Probable Cause	No Cause	Administrative Closure	Mediation/Resolved	Settled/Pending	Open/Pending	Withdrawn																						
Baltimore City Sheriff's Department	109	1	0																																															
Dept of Budget & Management	262	0	3									3										2	1																											
Dept of Commerce	163	0	1									1																																						
Dept of General Services	590	2	2																																															
Dept of Human Services	5,413	16	13	4	1	2	4					3	1	6	1	7	2	4																																
Dept of Information Technology	163	1	0																																															
Dept of Juvenile Services	1,899	6	24	15	1	1	6	1	2	4	2	7	1	9	4	1	22	2	20	1																														
Dept of Natural Resources	1224	1	0																																															
Dept of Public Safety & Correctional Services	8156	25	59	25	8	6	4	4	4	11	1	15	3	35	9	17	54	2																																
MD Dept of Health	8,495	35	23	10	4	3	3					1	11	1	8	1	3	2	9	42																														
MD Dept of Labor	1,399	2	1																																															
MD Dept of the Environment	764	3	1																																															
MD Dept of Transportation	9,679	28	45	17	10	3						2	10	14																																				
MD Dept of Veterans Affairs	109	1	0																																															
MD Environmental Services	856	1	1									1																																						
MD Lottery Gaming & Control Agency	295	2	1	1																																														
MD State Dept of Education	1,217	4	8	2	4	3						4	6	1																																				
MD State Police	2,230	6	11	6	3	2	1					5		2																																				
Military Department	213	1	11	8								3		3																																				
Morgan State University	1,574	7	17		3		1					3	4	1	9																																			
Office of the Attorney General	662	1	4									2																																						
Office of the Public Defender	824	3	2	2																																														
St. Mary's College	330	1	0																																															
State Board of Elections	220	0	1																																															
State Dept of Assessment and Taxation	506	3	2	2																																														
Uninsured Employer's Fund	7	1	1	1																																														
TOTAL	47,359	151	231	93	0	30	0	22	0	25	5	16	64	6	68	4	8	83	29	42	216	19	96	91	2	20	4																							

*In order to avoid duplication, Basis, Issues, and Dispositions are only counted on Internal complaints. Please note: Some complaints have multiple basis. An employee may file a complaint alleging that more than one protected class has been violated; therefore, the total number of internal complaints may differ from the total number for basis and dispositions.

- (1) "Internal" complaints are those filed at the agency level, with a State agency's Fair Practices Officer or Equal Employment Opportunity Officer.
- (2) "External" complaints are those filed with the Maryland Commission on Civil Rights, Department of Justice, Courts, and/or Equal Employment Opportunity Commission.
- (3) "Other" Complaints include employment related complaints, not discriminatory in basis.

State of Maryland 2021 Hate Bias Report

The Maryland Department of State Police publishes the Hate Bias Report annually each fall for the previous calendar year. The 2021 Hate Bias Report includes all reported and verified incidents which includes reports of bias motivations based on sexual orientation and gender identity.

Below are some findings and figures from the report that include bias motivations based on sexual orientation and gender identity. Readers are encouraged to read the full report referenced.

(Maryland Department of State Police, 2022, 1-63)

Bias Motivation

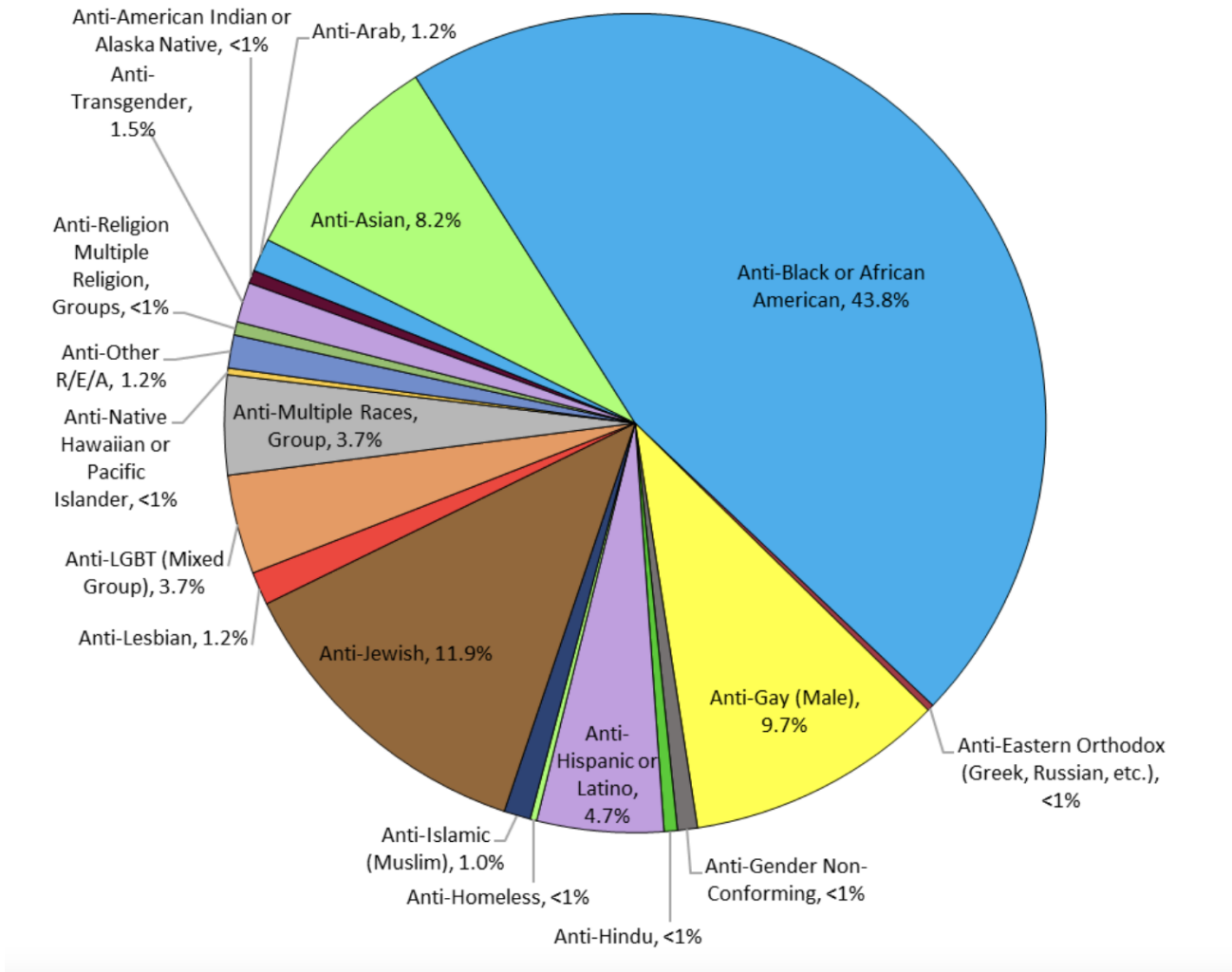
In 2021, R/E/A made up 68.7% of all bias motivations for reported incidents. Between 2019 - 2021, R/E/A comprised the majority of all hate bias motivations followed by Religion and Sexual Orientation.

Category	Verified			All Reports		
	2019	2020	2021	2019	2020	2021
R/E/A	58	85	75	262	293	276
Religion	19	12	9	84	63	57
Sexual Orientation	10	15	15	50	36	59
Disability	0	0	0	1	0	0
Gender	0	0	0	2	2	0
Gender Identity	3	2	3	9	5	9
Homelessness	0	1	1	0	1	1
Total	90	115	103	408	400	402

Figure 6: Three-year comparison of verified incidents by bias motivation compared to all incidents by bias motivation is shown here. Incidents can have more than one bias motivation. This accounts for differences between bias motivation numbers and the total number of incidents reported.

(Maryland Department of State Police, 2022, 7)

Figure 7: Total hate bias motivations for all reports as a percentage in 2021 is shown here.



(Maryland Department of State Police, 2022, 7)

➤ **Study and establish best practices for inclusion of LGBTQIA+ individuals and communities**

The commission has formed committees to review and make recommendations on best practices for state agencies. The commission looks forward to supporting state agencies and providing recommendations and technical assistance on policies concerning LGBTQIA+ persons.

➤ **Offer testimony on issues concerning LGBTQIA+ persons before legislative and administrative bodies**

The commission voted unanimously at their November 7, 2022 meeting to establish the following policy priorities during the 2023 legislative session:

- Trans Health Equity Act
- Transgender Respect, Agency, and Dignity Act
- The Birth Certificate Modernization Act

The commission looks forward to offering testimony on these and other important issues during the 2023 legislative session.

➤ **Act as a clearinghouse for activities to avoid duplication of efforts**

In 2022 the commission began building the foundation to act as a clearing house for LGBTQIA+ efforts in the state by connecting with state agencies, nonprofit organizations, community groups and leaders. Future plans include a community calendar and resource directory to be housed on the commission webpage: <https://goci.maryland.gov/lgbtq/>

➤ **Create surveys and appoint advisory committees**

The commission established two advisory committees, Youth & Education Committee and a Health Committee. The advisory committees will begin gathering data and information to better understand the needs of our LGBTQIA+ communities around the state.

The commission also created a Strategic Planning Committee to lead an intentional strategic planning process to engage all levels of our LGBTQIA+ community to inform and guide the commission's work and priorities over the next 3-5 years. The commission looks forward to hosting community listening sessions, town hall meetings, focus groups, and conducting surveys to reach as many stakeholders as possible.

Section 3

Events & Outreach

Events & Outreach

Commissioners and staff had the opportunity to participate and attend several events throughout the calendar year 2022.

June 4, 2022 - Baltimore Trans Pride, Baltimore, MD

Members of the Commission attended Baltimore Trans Pride, hosted by Baltimore Safe Haven, a trans-led drop-in wellness center that provides transitional housing and resources for LGBTQIA+ community members. Learn more at baltimoresafehaven.org.

Baltimore Safe Haven founder and executive director, Iya Dammons. Photo credit: EK Outlaw Black Lens Photos and Media Copyright © 2022 All Rights Reserved.



June 4, 2022 - Annapolis Pride Parade, Annapolis, MD



The Commission participated in the Annapolis Pride Parade to honor Delegate Lily Qi, the sponsor of the bill that created the Maryland Commission on LGBTQ Affairs and celebrate Pride Month. The event was hosted by Annapolis Pride, learn more at annapolispride.org.

Delegate Lily Qi in the Annapolis Pride Parade, accompanied by vice chair Joseph Clapsaddle (passenger) and commissioner Mark Ridderhoff (driver). Photo credit: Chair Joe Toolan.

June 26, 2022 - Pride in the Plaza, Silver Spring, MD

Montgomery County hosted their second annual Pride in the Plaza Festival at Veterans Plaza in Downtown Silver Spring with exhibitors and entertainment. The event was organized with Councilmember Evan Glass, Montgomery County's first openly LGBTQIA+ councilmember.

Commissioner Lee Blinder exhibiting with [Trans Maryland](#) at Pride in the Plaza. Photo credit: Trans Maryland.



August 20, 2022 - Maryland Commission on Civil Rights Dinner, Hanover, MD

The awards dinner was held at Maryland Live and attended by chair Joe Toolan, vice chair Joseph Clapsaddle, and administrative director Jeremy Browning. The dinner was hosted by the Maryland Commission on Civil Rights, which ensures opportunity for all through the enforcement of Maryland's laws against discrimination in employment, housing, public accommodations, and state contracts. Learn more at mccr.maryland.gov.



October 8, 2022 - Laurel Pride, Laurel, MD

The inaugural Laurel Pride celebration was held at Granville Gude Park and organized by the City of Laurel, Laurel Pride Day Committee. Learn more at the cityoflaurel.org.

Performer Shawna Alexander introduces Craig A. Moe, Mayor of the City of Laurel, to make welcoming remarks.

October 8, 2022 - Upper Chesapeake Bay Pride Festival, Havre De Grace, MD

The Upper Chesapeake Bay Pride celebration was held at Concord Point Lighthouse Keeper's House and hosted by Upper Chesapeake Bay Pride and featured local vendors, performances, and speakers. Learn more at ucbpride.com.



From left to right: Vice chair Joseph Clapsaddle, chair Joe Toolan, UCB Pride board member Sue Knause, administrative director presenting governor's citation, and UCB Pride board member and commissioner Kurt Doan. Photo credit: UCB Pride.



Commissioner Lee Blinder exhibiting with Trans Maryland. Photo credit: Trans Maryland.

October 9, 2022 - Southern Maryland Pride in Lexington, MD

Southern Maryland Pride was held at Lexington Manor Passive Park and hosted by Pride SoMD (Southern Maryland). The event featured live performances, speakers, and local vendors. Learn more at pridesomd.com.

Chair Joe Toolan gives the keynote address.



October 9, 2022 - Howard County Pride, Columbia, MD

The second Howard County Pride Festival was hosted by HoCo Pride and held at Merriweather Post Pavilion featuring vendors, speakers, and performances from local artists. Learn more at howardcountypride.org

Attendees enjoy a performance at Merriweather Post Pavilion.



October 15 - FreeState Justice Jazz Brunch, Baltimore, MD

A fundraiser for FreeState Justice held at Guilford Hall Brewery in Baltimore, MD. Learn more at freestate-justice.org.



Freestate Justice staff from left to right: Em Espey, Shayne Miller-Westfield, Tina Jones, Philip Westry, Luaren Pruitt, Mackenzie Dadswell, Jamie Grace Alexander. Photo credit: FreeState Justice.

December 6, 2022 - Maryland Correctional Institution Facility Tours of MCI-W and MCI-J, Jessup, MD

Hosted by the Maryland Department of Public Safety and Correctional Services (DPSCS) and attended by GOCI staff and several Commissioners.

December 9, 2022 - Maryland LGBT+ Champions Awards Dinner, Linthicum Heights, MD

The event honored a number of Champions including commissioner Jabari Lyles as Emerging Leader of the Year.



References

Clark, C., Menard, L., & Kosciw, J. (2022). *The 2021 National School Climate Survey: the Experiences of LGBTQ+ Youth in Our Nation's Schools*. GLSEN.

Department of Homeland Security. (2022, November 30). *National Terrorism Advisory System Bulletin - November 30, 2022*. Homeland Security. Retrieved January 11, 2023, from <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-november-30-2022>.

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M., & National Center for Transgender Equality. (2016). *The Report of the 2015 U.S. Transgender Survey*.

Maryland Department of Budget and Finance, EEO Office. (2022, January 1). *Annual Statewide Equal Employment Opportunity Report - Fiscal Year 2021*.

Maryland Department of State Police & THE MARYLAND COORDINATION & ANALYSIS CENTER. (2022, October). *State of Maryland 2021 Hate Bias Report*.

The Trevor Project. (2022, December 21). *2022 National Survey on LGBTQ Youth Mental Health Maryland*.

Thank you for reading our 2022 Annual Report

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Maryland Commission on LGBTQ Affairs

Prepared by:

Jeremy Browning (he/him)
jeremy.browning@maryland.gov
Administrative Director
Maryland Commission on LGBTQ Affairs

Maryland Commission on LGBTQ Affairs
Governor's Office of Community Initiatives
100 Community Place
Crownsville, MD 21032

Informational Testimony SB0761 - Transgender Respe

Uploaded by: Jeremy Browning

Position: INFO



**Maryland Commission
on LGBTQ Affairs**

**TESTIMONY OF JEREMY BROWNING
ADMINISTRATIVE DIRECTOR, MARYLAND COMMISSION ON LGBTQ AFFAIRS
INFORMATION STATEMENT ON SB0761
TRANSGENDER RESPECT, AGENCY, AND DIGNITY ACT**

March 15, 2023

SENATE - Judicial Proceedings Committee

The Hon. William C. Smith, Chair
The Hon. Jeff Waldstreicher, Vice Chair

Good afternoon, Chair Smith and members of the committee. My name is Jeremy Browning(he/him) and I am the Administrative Director of the Maryland Commission on LGBTQ Affairs. Thank you for the opportunity to provide informational testimony on SB0761 on behalf of the Maryland Commission on LGBTQ Affairs.

I would like to commend the members of the General Assembly for their work on behalf of our LGBTQIA+ community and their families. The efforts to create a Commission to address the needs and issues of the communities are laudable.

The Maryland Commission on LGBTQ Affairs was created by the 2021 Maryland General Assembly to assess challenges facing our LGBTQ community, collect data across state agencies, study and establish best practices for LGBTQ inclusion, and offer testimony on issues concerning LGBTQ persons before legislative and administrative bodies.

Senate bill 761 represents a critical step towards ensuring that our transgender, nonbinary, and intersex community members are treated with dignity and respect while in the custody of the state.

The bill's requirement for the Commissioner of Correction report to include information regarding the gender identities of incarcerated individuals and the housing status of transgender, nonbinary, and intersex incarcerated individuals will provide important insights into their experiences while in custody of the state.



Maryland Commission on LGBTQ Affairs

The bill also prohibits correctional employees from discriminating against incarcerated individuals on the basis of protected classes and requires the managing official to develop a written nondiscrimination policy that will help to ensure that all individuals are treated fairly and humanely.

Additionally, this bill will ensure transgender, nonbinary, and intersex individuals are not subjected to harmful practices such as housing in restrictive or single-cell housing simply because of their gender identity.

The "Transgender Respect, Agency, and Dignity Act" is a top priority for the Maryland Commission on LGBTQ Affairs and is an important step towards creating a more just Maryland for all individuals, regardless of their gender identity.

With this information, Mr. Chair and members of the committee, I conclude my testimony. I am optimistic that the Commission will work hard and have tremendous success in improving the lives of our LGBTQIA+ communities and their families. I look forward to furthering those activities and I would be happy to answer any questions.

Transgender Rape - SB0761 Testimony .pdf

Uploaded by: Will Zwart

Position: INFO

Informational Testimony of Senate Bill SB0761 - William Zwart.

Good afternoon, Honorable Chair and members of the committee,

Putting men in women's prisons and women in men's prisons causes an increase in rape and violence.

[Example #1](#)

<https://www.thegatewaypundit.com/2022/07/27-year-old-transgender-inmate-moved-youth-facility-impregnating-two-female-inmates-womens-prison/>

[Example #2](#)

<https://www.thegatewaypundit.com/2022/04/science-two-female-prisoners-womens-prison-become-pregnant-sex-transgender-inmates/>

[Example #3](#)

<https://www.thegatewaypundit.com/2017/02/shocker-transgender-killer-removed-female-prison-sex-women/>

[Example #4](#)

<https://www.thegatewaypundit.com/2023/02/chaos-uk-scottish-politicians-allow-male-born-rapists-go-womens-prisons/>

[Example #5](#)

<https://www.thegatewaypundit.com/2023/02/man-raped-infant-transferred-prison-unit-mothers-babies-claiming-transgender/>

[Example #6](#)

<https://nypost.com/2022/04/25/transgender-riker-inmate-gets-7-years-for-raping-female-prisoner/>

[Example #7](#)

<https://www.theguardian.com/uk-news/2018/oct/11/transgender-prisoner-who-sexually-assaulted-inmates-jailed-for-life>

[Example #8](#)

<https://www.dailymail.co.uk/news/article-11458335/Male-female-Trans-inmates-drive-rising-numbers-ropes-abuse-womens-prisons.html>

[Example #9](#)

<https://www.lifesitenews.com/news/man-who-claims-hes-female-accused-of-raping-inmates-at-womens-prison/>

[Example #10](#)

<https://www.dailymail.co.uk/news/article-10406351/i-sexually-assaulted-transgender-rapist-womens-jail.html>

[Example #11](#)

<https://www.lifesitenews.com/news/californias-transgender-policies-led-to-sexual-assaults-traumatization-of-female-prisoners-lawsuit-says/>

[Example #12](#)

<https://www.independent.co.uk/news/world/australasia/transgender-woman-raped-2-000-times-male-prison-a6989366.html>

[Example #13](#)

<https://news.wttw.com/2020/02/19/lawsuit-female-prisoner-says-she-was-raped-transgender-inmate>

If one is born a man, regardless of whatever gender he assigns to himself later, and is put in a women's prison, he will either rape women, or be assaulted himself.

You have now been informed. Please use the information to fight against rape and assault against both genders.

Thank you.