
BILL NO.: House Bill 426
TITLE: Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates
(Transgender Respect, Agency, and Dignity Act)
COMMITTEE: Judiciary
DATE: February 21, 2023
POSITION: **SUPPORT**

House Bill 426 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 HB 426.

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>