

House Bill 0649 —  
Testimony: Unfavorable

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Dear Honorable Members,

Protecting civil rights in Maryland is an excellent goal. However, this bill does not do that. It rides roughshod over private right to freedom of religion and freedom of association. *Mahmoud v. Taylor* (Montgomery County, Maryland school board) establishes a clear constitutional right for parents to restrict schools from teaching their children about gender identity.<sup>1</sup> Such rights cannot be infringed by the Maryland state legislator and therefore HB 0649 is over-broad and violates parental constitutional rights.

If this conflict with the *Mahmoud* Supreme Court ruling is not enough, consider how the text of HB 0649 sets up direct conflict of rights in designating “gender identity” as a protected class while also listing “sex” as a protected class. This is self-contradictory and incoherent language that will create endless conflicting claims in law. In practice, girls and women will suffer while boys and men who claim “female gender identity” will profit at the expense of females.

“Gender Identity” is a recently emerged type of identity that in the past decade has been increasingly written into Maryland state law. What is “gender identity”? Well, it is a completely subjective state of mind that runs contrary to all empirical physical evidence. That is, a physical male can claim an “identity” of being female. Similarly a physical female can claim an “identity” of being male. Such an identity is completely subjective and not verifiable by any type of diagnostic testing or verification. Indeed, what does it “feel like” to be a woman? No answer is apparent other than an answer based in sex-stereotypes, but sex-stereotypes are at the root of the historical oppression of women.<sup>2</sup>

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<sup>1</sup> *Mahmoud v. Taylor*, U.S. Supreme Court, decided June 2025, available at: [https://www.supremecourt.gov/opinions/24pdf/24-297\\_4f14.pdf](https://www.supremecourt.gov/opinions/24pdf/24-297_4f14.pdf).

<sup>2</sup> The U.S. Supreme Court in *U.S. v. Skrametti* spells out how historical sex stereotypes oppressed women. See, *U.S. v. Skrametti* 605 U.S. \_\_\_\_ (2025), available at: [https://www.supremecourt.gov/opinions/24pdf/23-477\\_2cp3.pdf](https://www.supremecourt.gov/opinions/24pdf/23-477_2cp3.pdf), p.9.

Protecting purely subjective identity rooted in sex stereotypes is regressive not progressive. Moreover, no other type of completely subjective identity is considered a protected characteristic and it is wrong to accord purely subjective “gender identity” such a powerful privilege.

Associate Justice Barrett in *U.S. v. Skrametti* (concurring opinion) spells out why ‘gender identity’ should not be a protected class.<sup>3</sup> To qualify as a protected class in federal law there must be “obvious, immutable or distinguishing characteristics that define them as a discrete group; whether the group has, “[a]s a historical matter, . . . been subjected to discrimination,” and whether the group is “a minority or politically powerless.” Manifestly gender identity is not a politically powerless group, as we see in legislators who enact law after law that privilege gender identity over and against women and girls’ sex-based rights. Gender identity is not immutable nor is it well defined. Indeed, gender identity is entirely subjective. A man with full male genitalia and a beard can still claim to identify as female. Moreover, a person might change gender identity from day-to-day or at anytime at all. Neither are those who claim “gender identity” a discrete group, rather the World Professional Association of Transgender Health (WPATH) and the American Psychological Association both describe and celebrate the enormous diversity of gender identities.<sup>4</sup>

For Maryland to establish “gender identity” as a protected class flies in the face of federal law and provokes unprecedented legal infringement on the rights of women and girls. That is, gender identity, a new type of identity that, again, is completely subjective and unverifiable, directly undermines sex based rights. The rights of women and girls are harmed by “gender identity” rights in part because the vast majority of men and boys are stronger and more aggressive than women and girls.

Males are the perpetrators in 99% of sexual assaults.<sup>5</sup> Of those assaults, the vast majority are male assaults perpetrated on females. That is, 91% of the victims of male sexual assaults are female.<sup>6</sup> In 8% of the cases, males assault other males.<sup>7</sup> Males with “female identity” perpetrate crimes to the same degree as males with male identities.<sup>8</sup>

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<sup>3</sup> *U.S. v. Skrametti, op cit.*, Barrett concurring opinion pp. 3-11.

<sup>4</sup> *id.*, at p.5.

<sup>5</sup> Supporting Survivors, Fact Sheet, Cal Poly, Humboldt, available at: <https://www.humboldt.edu/supporting-survivors/educational-resources/statistics>

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

<sup>8</sup> “Transgender women exhibit a male-type pattern of criminality: Implications for legislators and policy makers,” Fair Play For Women, Dec. 12, 2020, available at: <https://fairplayforwomen.com/transgender-male-criminality-sex-offences/>.

Women and girls have sex-specific spaces in part to protect themselves from such assaults. With “gender identity” as a protected category any male can claim the right to access female spaces on simple assertion of an “identity” that cannot be verified. Any male can claim “female identity” at will, either for a day, or for a few months, or for a lifetime. This increases the vulnerability of all women and girls.

When men and boys with “female gender identity” claim the right to access female only programs and spaces, the rights of females are infringed. This happens when males who claim female identity thereby gain access to female only bathrooms, locker rooms, showers, spas, sports teams, and prisons. To deny this endangerment is to deny basic knowledge of human behavior. To ignore the endangerment of women and girls by laws such as HB 0649 is unforgivably callous and misogynistic.

In Loudon County, Virginia, a boy with a “female identity” twice assaulted girls in a school bathroom. Such crimes have occurred across the U.S.<sup>9</sup> Already in Maryland public schools, for example per Frederick County school board policy, boys who claim to be female have full right to sleep with girls on overnight school trips without any notice given to students or their parents. This is direct endangerment of Maryland girl students.

We are seeing men and boys who claim “female identity” push women and girls off of sports teams and off of award podiums.<sup>10</sup> A boy or man who cannot make the top echelon in male sports can claim a “female identity” and suddenly achieve champion status. This is well documented, (Lia Thomas is the most famous example but far from the only one), and infringes the rights of all girls and women who cultivate their own talents only to be displaced by a “gender-identified” male.

HB 0649 ramps up the conflict of law by placing “gender identity” on a list of protected attributes that also includes “sex”. This is incoherent because “gender identity” is only possible via the denial of “sex”. Title IX allows for sex-based sports teams. How does HB 0649 address this conflict between sex based rights and gender identity? The bill is mute on the conflict of law. Indeed, HB 0649 only exacerbates the conflict between objective sex and subjective ‘gender identity’ and creates more confusion.

In sum, this bill should be defeated because it is unconstitutional and because of it has incoherent language that undermines the rights of women and girls. Respect for the women and girls of Maryland, who need their sex based rights, demands the defeat of this bill. Indeed, the long fight for sex based rights for women and girls should be honored by legislators, rather than allowing such rights to be callously endangered.

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<sup>9</sup> See the compilation of headline reporting at: <https://le.utah.gov/interim/2024/pdf/00000577.pdf>.

<sup>10</sup> [SheWon.org](https://www.shewon.org) documents the numerous instances of males pushing females out of competition and off of winner’s podiums.

Stand up for the rights of women and girls and defeat this bill today. Stand up for your daughters, your nieces, and all the other girls and women who will suffer from men and boys who “feel like” they are female. Such men and boys are not female and they should not have license to infringe on female rights.

Sincerely,

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for: RALI — the Reborn Athena Legal Initiative