

Testimony
JoAnn Edwards Executive Director
Pennsylvania Human Relations Commission

Senate Labor and Industry Committee Hearing: SB 1306
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Good afternoon, Chairperson Baker, Chairperson Tartaglione, and committee members: thank you for the opportunity to present testimony on behalf of the Pennsylvania Human Relations Commission (PHRC).

My name is JoAnn Edwards and for five years I've served as the PHRC's Executive Director. We thank you for supporting the PHRC. As requested I plan to discuss the impact of adding specific protections for sexual orientation, gender identity or expression to the PHRA.

The PHRC receives approximately 3,500 complaints every year. Currently, because the Pennsylvania Human Relations Act (PHRA) does not specifically cover claims based on sexual orientation, gender identity or gender expression, there are no statewide protections for LGBTQ individuals who have experienced discrimination.

Imagine the following:

Same sex marriage is legal in Pennsylvania. However, when your employer learns that you are gay because you put your wedding picture on your desk, your employer fires you. PHRC is not specifically authorized under law to take this complaint.

Pennsylvanians are experiencing discrimination based on sexual orientation and gender identity.

Some of their stories can be found on the website of the Campaign for Fairness¹ such as:

- Christine Black from Scranton—"I did nine years and three deployments in the U.S. Army, only to get out and move to Pennsylvania where I discovered that because of my sexual orientation, I am not equally protected under our state's nondiscrimination law".
- Kevin Ulatowski of Mercer, "I was fired from my job for helping a transgender person and that type of discrimination in Pennsylvania's workforce is legal. If that can happen to me, imagine the discrimination that hard working gay and transgender people face in Pennsylvania's workforce every day. It is more than time to update our law".

¹ <http://campaignforfairnesspa.org>

- And from Nicci and Bea Copeland of Wilkes-Barre, who say” As a married lesbian couple, we know that discrimination against the gay and transgender community continues to happen in instances of employment and housing. We want to raise our family in a state that has protections that work for everyone”.

I recently attended the International Association of Official Human Relations Agencies Conference in Philadelphia, PA and heard a panel discussion from students that participate in the Attic Youth Center in Philadelphia. Each student had life stories of injustice. They were kicked out of their homes by their families when they identified as being LGBTQ and experienced horrible shelter, safety and equity issues which resulted in them prostituting themselves for food or shelter since they could not find an employer that would hire them.

The PHRC enforces two laws; the Pennsylvania Human Relations Act (PHRA) and the Pennsylvania Fair Education Opportunities Act (PFEOA).² These laws require PHRC to investigate and resolve allegations of unlawful discrimination with respect to employment, housing and commercial property, public accommodations and education. These laws prohibit discrimination for everyone except LGBTQ individuals.

Over the years, in the absence of the commonwealth taking action, 29 local municipalities enacted protections against discrimination for LBGTQ individuals. This patchwork of ordinances comes nowhere near to providing protections for all Pennsylvanians. However, when PHRC recently polled these municipalities, about the number of claims they received, those responding told us that 97 complaints of discrimination have been filed with these local governments (Attachment I).

In the opinion of the PHRC, SB 1306 is entirely consistent with Section 2 of the PHRA where the General Assembly determined in the “Findings and Declaration of Policy” that the PHRA exists as “...an exercise of the police power of the Commonwealth for the protection of the public welfare, prosperity, health and peace of the people of the Commonwealth.”

PHRC is also tasked with preventing discrimination from occurring in the first place by providing education and outreach to Pennsylvanians about the law and their civil rights and duties under the PHRA. In addition, the PHRC monitors and attempts to resolve civil tensions in local communities across Pennsylvania. This is especially important because Pennsylvania is home to the fifth largest number of hate groups in the United States.

² The PA Fair Education Opportunities Act provides protections from discrimination for persons participating in post-secondary education. The General Assembly has broadened this Act, which is a companion to the PHRA, four times.

At this time, LGBTQ individuals who are discriminated against due to sexual orientation, gender identity, or gender expression do not have specific protection through the PHRA. SB 1306 proposes to amend the Pennsylvania Human Relations Act, by adding employment protections that prohibit discrimination based on an individual's sexual orientation, gender identity, and gender expression.

The PHRC supports the addition of these protections. During its June 27, 2016 Commission meeting, the Commission voted to support SB 1307, a bill extending protections in employment and housing.

PHRC welcomes the opportunity to address unlawful discrimination for individuals who are discriminated against due to their sexual orientation, gender identity, or gender expression. However, PHRC has been and remains in dire need of funds, so, accordingly, PHRC would be seeking additional budget funds to address the anticipated increase in complaints, revisions to public information materials, investigative materials and tools, including PHRC's case management computer program changes, and increased needs for public education and outreach.

In order to gain some information about the anticipated increase in claims due to the expansion of the PHRA to cover claims based on sexual orientation, gender identity, and gender expression, the PHRC's staff researched the experiences of other civil rights agencies.

Our colleagues at the Philadelphia Commission on Human Relations, where sexual orientation and gender identity have been protected since 1982 and 2002 respectively,³ indicate that claims based on sexual orientation and gender identity make up about 8 percent of their overall case load.

Presently, there are twenty states plus the District of Columbia that have employment non-discrimination laws that cover sexual orientation and gender identity and two states that have employment non-discrimination laws that cover only sexual orientation.

The chart attached to my testimony lists several states' statistics that reference actual numbers of discrimination complaints filed annually in matters of employment and housing on their websites or in annual reports (Attachment II). We believe the statistics are low for two reasons. First, the expanded coverage in these laws is relatively new, so not everyone may be aware of their rights under the state law. Second, the numbers may be low because of individual fears of having to publicly disclose their orientation or identity. Gay and transgender individuals have valid concerns for their safety and security, including job security, and may decide it is safer not to publicly disclose.⁴

³ Philadelphia Human Relations Commission Annual Report 2010.

⁴ [For example, according to the National Center for Transgender Equality, "More than one in four transgender people have lost a job due to bias, and more than three-fourths have experienced some form of workplace discrimination. Refusal to hire, privacy violations, harassment, and even physical and sexual violence on the job are common occurrences, and are experienced at even higher rates by transgender people of color."](#)

In Pennsylvania we estimate that adding specific protections for sexual orientation, gender identity and gender expression to the PHRA would initially increase PHRC's case load by at least 100 employment complaints during the first year. We anticipate it would increase slightly more each year as more persons learned of these protections.

During the first year, in addition to the PHRC experiencing an increase in its number of complaints it receives, the PHRC would need to change its case management computer programs, website and investigative and outreach materials; in addition, much work would be needed to make the public aware of their rights and duties under the expanded law. Thus, PHRC projects needing two additional positions (one to investigate complaints and the other to conduct outreach and training on a full time basis) along with \$400,000 to pay for the related one-time costs associated with this legislative change, including programming changes to our computer-based case management system, revisions to complaint forms and outreach and training materials, and a media campaign regarding the law. In total, PHRC would need \$581,352 in additional state funding.

Regardless of any anticipated costs, we urge the legislature to pass specific protections against discrimination against LGBTQ individuals, as SB 1306 seeks to do.

This is a small cost and the need for fairness in the workplace for LGBTQ Pennsylvanians is large. Plain and simple, it is social justice and it is the right thing to do. The PHRC appreciates the opportunity to participate in this public hearing and asks for your continued support in securing the funding and resources we need to protect all Pennsylvanians from discrimination.

Thank you.