

“Bathroom Bill” Empowers Predators

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Both houses of the New York State Legislature have introduced a bill known as the Gender Expression Non-Discrimination Act (GENDA). GENDA is often referred to as the “Bathroom Bill” because it would allow any man who says he feels like a woman trapped in a man’s body access to women’s restrooms, locker rooms, and shower facilities. That name has gotten some traction, causing many advocates in the lesbian, gay bisexual and transgender (LGBT) community much consternation.

Senator Duane (D-Manhattan) sponsored the bill, S2406, in the Senate, and Assemblyman Gottfried (D-Manhattan) sponsored the bill, A5710, in the Assembly. The bill amends 12 sections of the Executive Law, one section of the Civil Rights Law, two sections of the Education Law, five sections of Penal Law, one section of the Criminal Procedure Law, and adds a new section to Executive Law defining gender identity or expression. The sponsors’ description of the bill states that the bill prohibits discrimination based on gender identity or expression. It defines “gender identity expression” as “having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-expression, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.” Those sections of the Criminal Law and the Criminal Procedure Law being amended deal with adding “gender identity or expression” to the list of factors that make a crime a hate crime. In other words, those engaging in cross-dressing or other forms of transsexual behavior would now be part of a protected class. If the bill were to become law, children are left in potentially dangerous situations. For example, if a young female child went into a woman’s restroom and a man followed her into the facilities, her father could not prevent the man from entering the bathroom. If a father tries to stop another male (who is self-identifying as a female) from using the women’s restroom, the father could be charged with a hate crime—a felony offense. An Empire State Pride Agenda fact sheet regarding GENDA states, “There has never been a reported problem regarding the security of restrooms including women’s restrooms in all the jurisdictions where similar laws have been adopted.” Contrary to the fact sheet however, the State of Colorado did notice a series of incidents in the months immediately following the passage of its version of the “Bathroom Bill.” For example:

- A female intern at Focus on the Family encountered a man in a women’s restroom in a local airport.
- A teen girl saw a man in a women’s restroom at a Colorado Springs-area Wal-Mart. The man then exposed his genitals to the girl.
- Two teenage girls discovered a man undressing in a women’s locker room in a Denver-area fitness facility.
- A mother and daughter in a Colorado mall bathroom were intruded upon by a man—in his 20s with a red-dyed Mohawk—who spent several minutes in the bathroom.

New Yorkers for Constitutional Freedoms (NYCF) is opposing the legislation. NYCF’s Executive Director, Rev. Jason J. McGuire, defends their organization’s stance. McGuire says: “I’m a father of little girls. I believe there are supposed to be some places deemed private for obvious reasons. I want my little girls to feel uncomfortable if they are in the bathroom and a man walks in. That is a healthy fear that protects them from potentially dangerous situations.” The New York State Legislature, or any governmental jurisdiction, should not be trying to desensitize my girls to those unsafe situations. Stranger danger is a good thing. The sponsors state that justification for the legislation is that the transgender community is not protected under current law. They say that transgender people, whose gender identity, appearances, behavior or expression differs from their genetic sex at birth, face discrimination in housing, employment, public accommodations and many other areas of life. They further state that they are particularly vulnerable to hate crimes. In April 2010, the Human Rights Commission of the State of Maine made a proposal to ban schools from enforcing gender divisions on sports teams, school organizations, bathroom, and locker rooms. If students were forced into a particular room or group because of their biological gender, it was perceived as discrimination. This proposal came about because a 12-year-old transgender boy was denied access to the girls’ restrooms. The Maine Human Rights Commission said that was a violation under Maine’s Human Rights Act. If the Bathroom Bill passes in New York State, New York could face the same situation as Maine. The New York State Assembly passed the Bathroom Bill in April of 2009, by a vote of 97 to 38. It was passed again in 2010, by a vote of 100 to 43. The Bill awaits action in the New York State Senate Investigations and Government Operations Committee. The committee could act upon the bill any time.