

# BATHROOM BILLS: Frequently Asked Questions



## WHAT IS A “BATHROOM BILL”?

A bathroom bill is legislation that seeks to allow or ban transgender individuals from using public facilities, particularly bathrooms, that correspond to their gender identity rather than to the sex they were assigned at birth. Over 200 U.S. cities and 18 states have positive laws that protect the rights and safety of transgender people, allowing them to use the bathroom of their choice. Other municipalities have passed laws banning such use by transgender people, usually by attempting to incite “bathroom panic”—an irrational fear that nondiscrimination laws will compromise the safety of women and children in public restrooms.

Note: As of this writing, the U.S. Department of Justice has declared North Carolina’s House Bill 2 (HB2) violates Title IX of the federal Civil Rights Act as it pertains to people who identify as transgender. It is unclear how this ruling may affect other, similar bills and laws. Further, the Department of Education has threatened to withhold federal funding from public schools that do not follow its guidelines to provide equal, preferably integrated, facilities to transgender students.

## WHY IS IT IMPORTANT TO PROVIDE LEGAL PROTECTIONS WHICH ALLOW TRANS PEOPLE TO USE PUBLIC FACILITIES CORRESPONDING TO THEIR GENDER IDENTITIES?

Transgender people who attempt to use public restrooms and other facilities are frequently subjected to verbal harassment, physical and sexual assault, forcible removal (and even arrest) by police. This danger confronts not only trans persons who use the facility corresponding to their gender identity, but also, and equally, to those

who find themselves forced, by a “bathroom bill”, to use a facility corresponding to their “assigned at birth” gender. In short, bathroom bills make it both humiliating and potentially dangerous for transgender people to use any public restroom at all. Fear and avoidance of using public restrooms have resulted in social and physical distress for many transgender people, who simply need a safe place to tend to basic needs.<sup>1</sup> Further, some “masculine looking” cis-gendered women have been denied access and harassed or beaten out of the same fear. And a father was beaten for taking his young daughter into the men’s rest room.

It should be emphasized that use of the public facility corresponding to one’s gender identity is not merely a matter of accommodating the transgender person’s preferences. A transgender man who has transitioned feels no more comfortable using the “ladies’ room” than a cisgender man would. Further, the transgender person’s decision to assume the risk of using the facility corresponding to their gender identity is almost universally regarded as a critical point in “transition”, and is likely to be important, perhaps critical, in evaluating the person for gender confirmation surgery.

“As a transwoman and seminary student, I am willing to work with any congregation to help them understand our needs and to assist them with becoming more inclusive. I find one of the most helpful things is simply exposure to the Other; once we become a face instead of a concept, we are more welcome. We confess ‘Forgive us, renew us, and lead us that we might delight in your will and walk in your ways.’<sup>6</sup> Jesus welcomed all to his table, we can too.”

—Nancy Wichmann

## WHAT ABOUT CLAIMS WHICH SAY THAT ALLOWING FOLKS TO USE BATHROOMS THAT CORRESPONDS TO THEIR GENDER IDENTITY IS ESPECIALLY DANGEROUS FOR WOMEN AND CHILDREN?

These claims are simply not rooted in fact. More than 200 cities and 18 states across America have already passed similar non-discrimination laws—and implemented them successfully. These places have not experienced the terrible things that opponents of this bill claimed would happen. Such “bathroom panic” claims have been debunked many times over.

In April 2016, more than 250 leading sexual assault and domestic violence organizations around the country released a landmark statement calling for an end to legislation that harms transgender people and excludes them from restrooms and other facilities. “Safety and privacy are important for all of us,” said Terri Poore, Policy Director at the National Alliance to End Sexual Violence. “Passing laws like the one in North Carolina to harm transgender people, or denying them protection from discrimination, does nothing to help survivors of violence or reduce assault. In fact, they do the opposite by putting transgender people at even greater risk of violence than they already are.”<sup>2</sup>

There is an additional fear that people (especially boys) will declare themselves to be transgender in order to access the other bathrooms and then switch back after they have satisfied their curiosity. Given the harassment that such individuals will almost certainly endure, the probability of this is low. The DOJ/DOE guidelines as of this writing require that schools may not request any evidence of the student’s intent. The World Professional Association for Transgender Health (WPATH)<sup>3</sup> provides a number of resources, including a “Standards of Care” guideline.<sup>4</sup>

### **AS A CHRISTIAN, WHAT CAN I DO TO HELP STOP THESE BILLS FROM BECOMING LAWS (OR REPEAL THEM IF THEY HAVE ALREADY BECOME LAW)?**

The single most important action you can take towards ensuring all transgender Americans remain free from discrimination is to start a conversation with the people you know about why caring for individuals, families, and communities is important to you. Think about who you can talk with.

- Schedule a meeting your State Representative or write them an email to share how your faith teaches that discrimination is wrong.
- Write a letter to your editor. Letters to the editor are one of the most read sections of your paper. Be public in your support against discrimination. (See resource on How to Write a Letter to the Editor at [RWKS.org/resources/injustice](http://RWKS.org/resources/injustice))
- Talk with your pastor and your synod’s bishop about why this matters and encourage them to make a public statement in church newsletters, Facebook page, or blog. Ask them to talk about it in one of their sermons.
- If you are not yet fully comfortable advocating for

non-discrimination, your synod or ReconcilingWorks may be able to find someone to speak with your congregation. You might also check with Extraordinary Lutheran Ministries’ Proclaim Pulpit Supply.<sup>5</sup>

### **LET PEOPLE KNOW WHAT YOUR FAITH TEACHES YOU**

- I do not want my faith used as justification for treating a group of people like second-class citizens. This doesn’t square with Jesus’ own example.
- Jesus taught: “Do to others as you would have them do to you.” (Luke 6:13)
- As a Christian, I must speak out against this law as it will actively hurt citizens of our state. Transgender people will not be able to use bathrooms in libraries, public hospitals, or most airports in the state. It might also allow hotels and apartment owners to refuse accommodations to transgender people. Worst of all, transgender students who attend public schools and universities won’t be able to use the bathroom, which will make it impossible for them to learn effectively.

“I am a mental health counselor who specializes in working with individuals who are questioning their gender or are actively going through a gender transition. I spend about 10% of the time in the counseling room helping people come to terms with who they are as a gendered being. I spend 90% of the time helping people develop coping skills to deal with the vile rhetoric they experience when they do not fit neatly in to a gender stereotype. Gendered bathrooms are the most dangerous place for a person in the middle of a gender transition as they may be subject to verbal and physical assault if they do not conform to someone else’s concept of male or female. This has to stop.”

—Nicole Garcia, MA NCC

Transgender Latina & Candidate for Ordained Ministry, ELCA

## OTHER MESSAGES

- This bill puts state law into direct conflict with some federal laws that say transgender people have the right to use restrooms that match their gender and will subject schools and public facilities to expensive federal complaints and lawsuits. It also bars local protections in public accommodations on the basis of gender identity, sexual orientation, and veteran status. The Supreme Court of the United States has held that states may not sue the federal government over its departments' publicly stated interpretations of the law. Therefore the courts will have to declare state suits to be frivolous.

- Major companies are lining up to speak out against this law because discrimination is bad for business. Laws that give transgender people the right to use the right restroom do not endanger others. In fact, over 200 cities and 18 states have similar laws. In some places, they've existed for decades without causing any harm. To claim otherwise is fear-mongering.

## RESOURCES

<sup>1</sup> <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>

<sup>2</sup> [www.lambdalegal.org/blog/20160421\\_sadv](http://www.lambdalegal.org/blog/20160421_sadv)

See also:

[www.politifact.com/north-carolina/statements/2016/apr/01/chris-sgro/equality-nc-director-no-public-safety-risks-cities](http://www.politifact.com/north-carolina/statements/2016/apr/01/chris-sgro/equality-nc-director-no-public-safety-risks-cities),

<http://mediamatters.org/research/2016/05/05/comprehensive-guide-debunked-bathroom-predator-myth/210200>

<sup>3</sup> <http://www.wpath.org/>

<sup>4</sup> [http://www.wpath.org/site\\_page.cfm?pk\\_association\\_webpage\\_menu=1351&pk\\_association\\_webpage=4655](http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1351&pk_association_webpage=4655)

<sup>5</sup> <http://www.elm.org/proclaim-pulpit-supply/>

<sup>6</sup> ELW, Setting One, p. 96

“As a trans man, I wish that I could sit down and meet with the people who are afraid of trans people in the bathrooms. I believe if we can each share our concerns and our hopes, we can find connection in our common dream of safety, in the bathrooms and in the world. Trans and gender non-conforming people are victims of too much violence, and women (cis and trans) are victims of too much harassment and sexual assault. Let us come together and make the world safer for all of us.”

—Leo Bancroft

Vice Chair, ReconcilingWorks Board of Directors  
and US-I Regional Coordinator

“As a transgender person, use of the restroom corresponding to my (female) gender identity was really the last step in the public part of my transition. Like most transgender people, this step in the process was - well - scary. It's a confined space and you're absolutely vulnerable. The answer to the question, 'What's the worst that could happen' is 'A lot, all of it really bad.' I did eventually 'feel the fear and do it anyway' and thus far have fortunately had no bad experiences. I don't know if that's because I 'pass' or because older people get away with stuff. But that is not the experience for many of us, and the 'bathroom bills' (and related publicity) have already had the effect of making our public lives even more hazardous than before. As an attorney involved in LGBT legal issues, I view the 'bathroom bills' as a very thinly veiled effort to restigmatize transgender people and deny them any legally protected public existence.”

—Danielle A. Modeen, Attorney at Mary L. Gaudio & Associates

