

**HB**

**184**

<TARGET><BILL>HB 184</BILL><SUBJECT>HB  
184</SUBJECT><COMM>HSTA30</COMM></TARGET>

# ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

## SPONSOR STATEMENT

### *HB 184 – Prohibiting Discrimination Based on Sexual Orientation*

The purpose of House Bill 184 is to include sexual orientation and gender expression or identity among existing protected classes. The Alaska Human Rights Law, as administered by the Alaska Human Rights Commission, already prohibits discrimination based on race, religion, color, national ancestry, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy, or parenthood in the areas of employment, housing, and other economic opportunities.

In 1945, the territory of Alaska embarked into a new frontier of equal rights law when it enacted the Alaska Anti-Discrimination Act almost twenty years prior to the U.S. Civil Rights Act of 1964. The bill's key supporter was Elizabeth Peratrovich who along with her family experienced racial discrimination throughout the state. It is in this spirit that the sponsor of HB 184 introduces legislation to continue the furtherance of equal rights in the state.

This bill aligns Alaska Statutes with nearly three decades of federal court decisions holding that discrimination based on sexual orientation or related characteristics in areas of private economic opportunity and by the government is illegal. Nevertheless, disregarding ample authority to find otherwise, the Alaska Supreme Court held in 2015 that the term 'sex' in the Alaska Human Rights Law does not include sexual orientation. In order to file a claim for discrimination based on sexual orientation or related characteristics an aggrieved person may not go to the Human Rights Commission but instead must either rely on federal administrative remedies or, if these are not available, file directly in federal court. There exist gaps in civil rights protections for Alaskans in the realm of private economic opportunities.

Also, pursuant to the 2012 U.S. Supreme Court case *Hosanna-Tabor v. EEOC*, HB 184 includes a ministerial exception to protect the constitutional right to free exercise by allowing religious institutions to discriminate in hiring leaders of worship. This exception occurs in the Anchorage and Juneau ordinances and many similar statutes.

Please contact my office at 465-4939 with questions or to discuss this bill.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

## Sectional Analysis

*HB 184 - "An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."*

**Section 1:** Amends AS 18.80.060 the powers and duties of the Human Rights Commission. The section adds "sexual orientation, gender identity or expression" to the list of protected categories that include race, religion, color, national ancestry, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy, or parenthood.

**Section 2:** Amends AS 18.80.200 to add "sexual orientation, gender identity or expression" to the list of discriminations which are cause for public concern, and asserts the need for the state to prevent such discrimination in employment, credit and financing practices, public accommodations and sale, lease or rental of real property.

**Section 3:** Amends AS 18.80.210 to add "sexual orientation, gender identity or expression" to the categories of protected civil rights.

**Section 4:** Amends AS 18.80.220 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful employment practices.

**Section 5:** Creates a new section under AS 18.80.220 which provides a religious exemption for the prohibitions against discrimination under the area of employment, stating that section 4 does not apply to an employment relationship between a religious organization and a minister employed by the religious organization.

**Section 6:** Amends AS 18.80.230 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful practices in public accommodations.

**Section 7:** Amends AS 18.80.240 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful practices in the sale or rental of real property.

**Section 8:** Amends AS 18.80.250 to add "sexual orientation, gender identity, or expression" to the prohibitions against unlawful practices in financing and extending credit.

**Section 9:** Amends AS 18.80.255 to add "sexual orientation, gender identity, or expression" to the prohibitions against unlawful practices by the state or its political subdivisions.

# ALASKA STATE LEGISLATURE



## REPRESENTATIVE ANDY JOSEPHSON

**Section 10:** Defines blockbusting, and amends AS 18.80.300 to add “sexual orientation, gender identity, or expression” to the prohibitions against unlawful practices in blockbusting, or practices by a real estate agents to close a transaction.

**Section 11:** Amends AS 18.80.300 to add definitions of “gender identity or expression,” and “sexual orientation” to Alaska statute.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HB 184  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB-184-HRC-02-23-18  
Title: DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.  
Sponsor: JOSEPHSON  
Requester: House State Affairs

Department: Office of the Governor  
Appropriation: Commissions/Special Offices  
Allocation: Human Rights Commission  
OMB Component Number: 1

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version/comments:**

No change, initial version.

Prepared By: <u>Marti Buscaglia</u>	Phone: <u>(907)792-7241</u>
Division: <u>Alaska State Commission for Human Rights</u>	Date: <u>02/23/2018 04:46 PM</u>
Approved By: <u>Marti Buscaglia</u>	Date: <u>02/23/18</u>
Agency: <u>Alaska State Commission for Human Rights</u>	

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2018 LEGISLATIVE SESSION**

**BILL NO.** HB 184

**Analysis**

This bill adds sexual orientation, gender expression and gender identity to the list of protected classes. We restructured in FY17, and have a new case management system that will be implemented this fiscal year. With these changes we can manage an increased caseload with no fiscal impact to the Commission. Therefore, we submit a zero note.

30th Legislature(2017-2018)

**Alaska Statutes 2016**

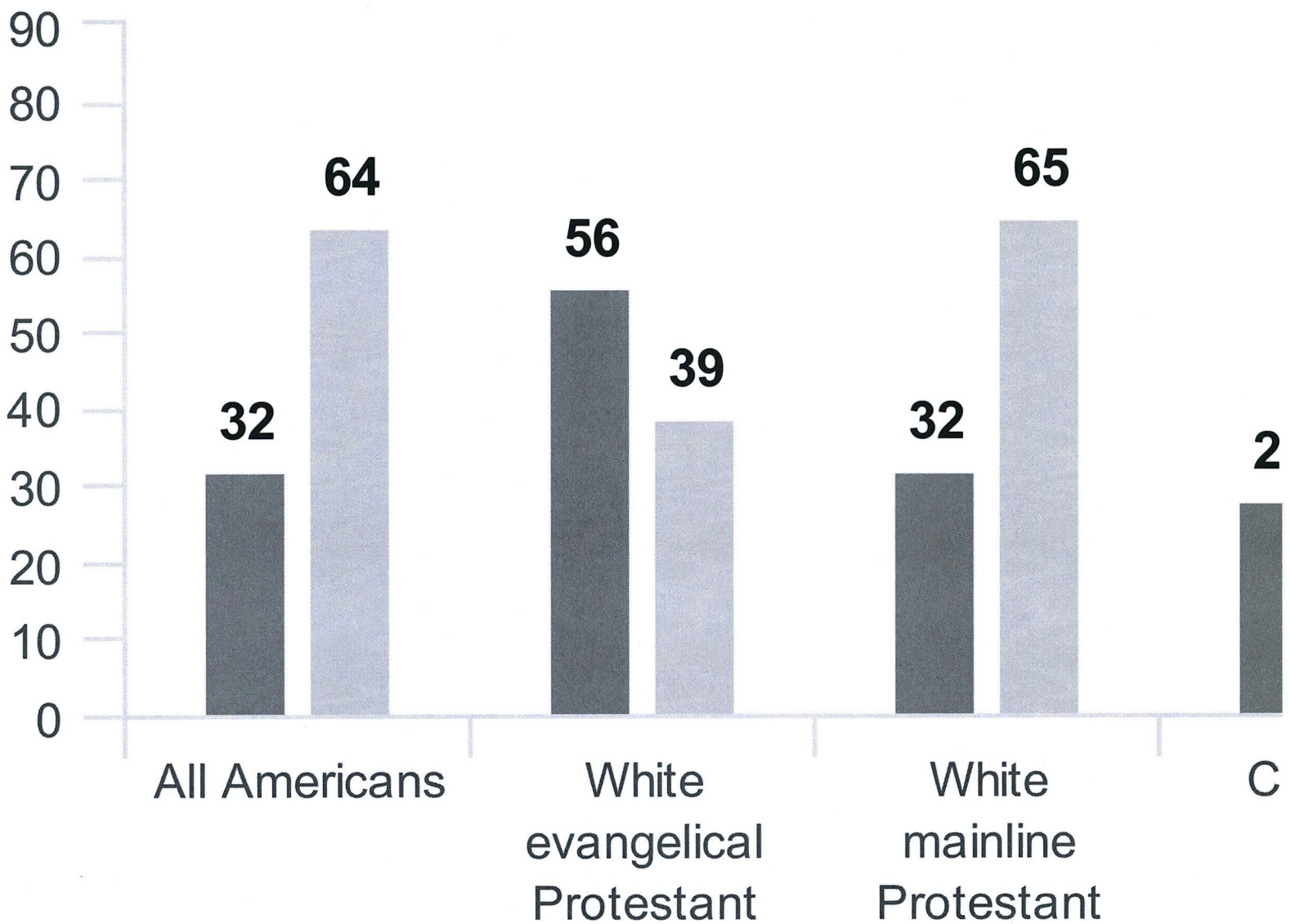
AS 18.80.300

(5) "employer" means a person, including the state and a political subdivision of the state, who has one or more employees in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association, or corporation is not organized for private profit;

# Most Religious Groups Oppose Refuse Service to Gay and Lesbian Groups

Do you favor or oppose allowing a small business to provide products or services to gay or lesbian religious groups?

● Favor

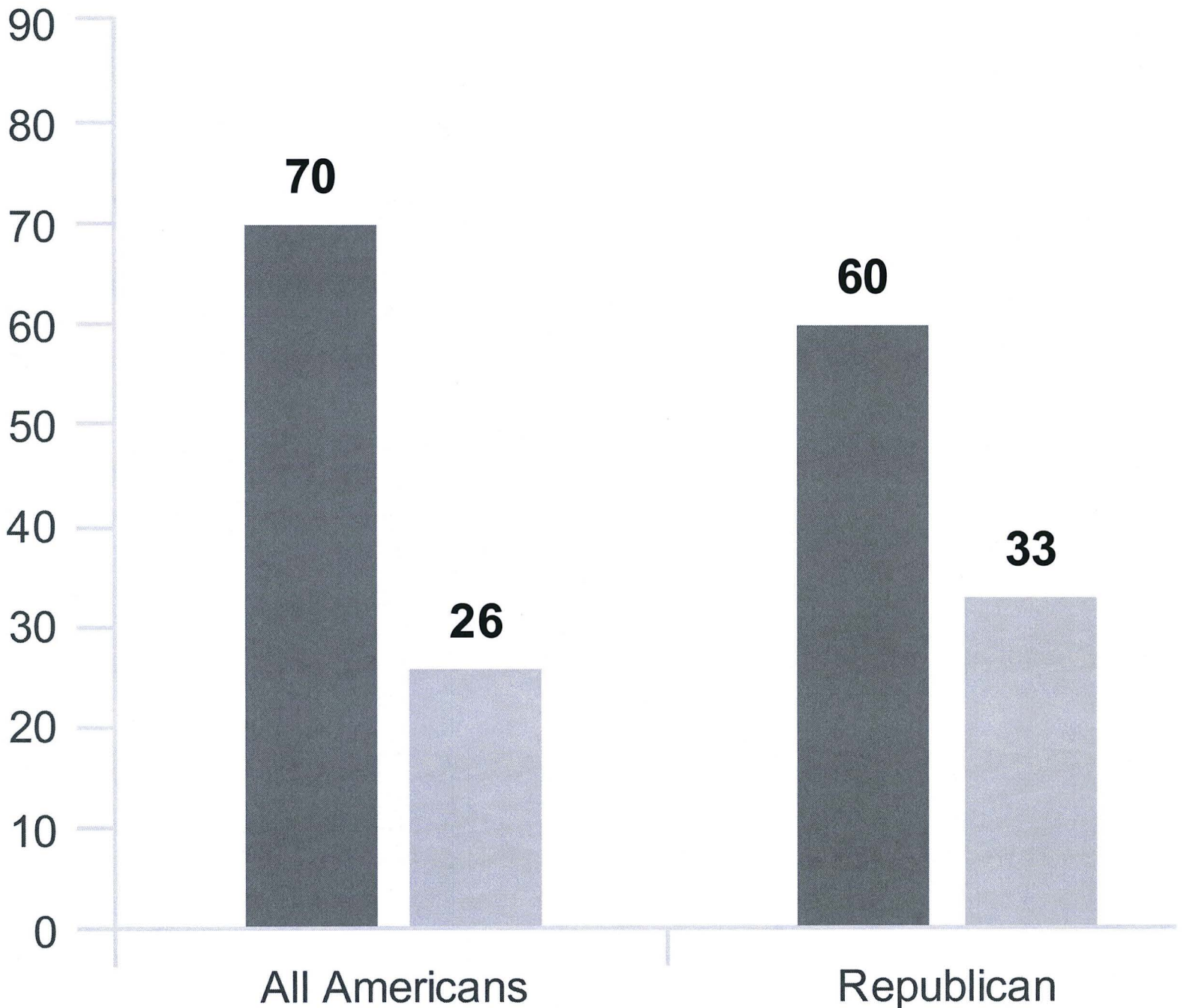


Source: PRRI F

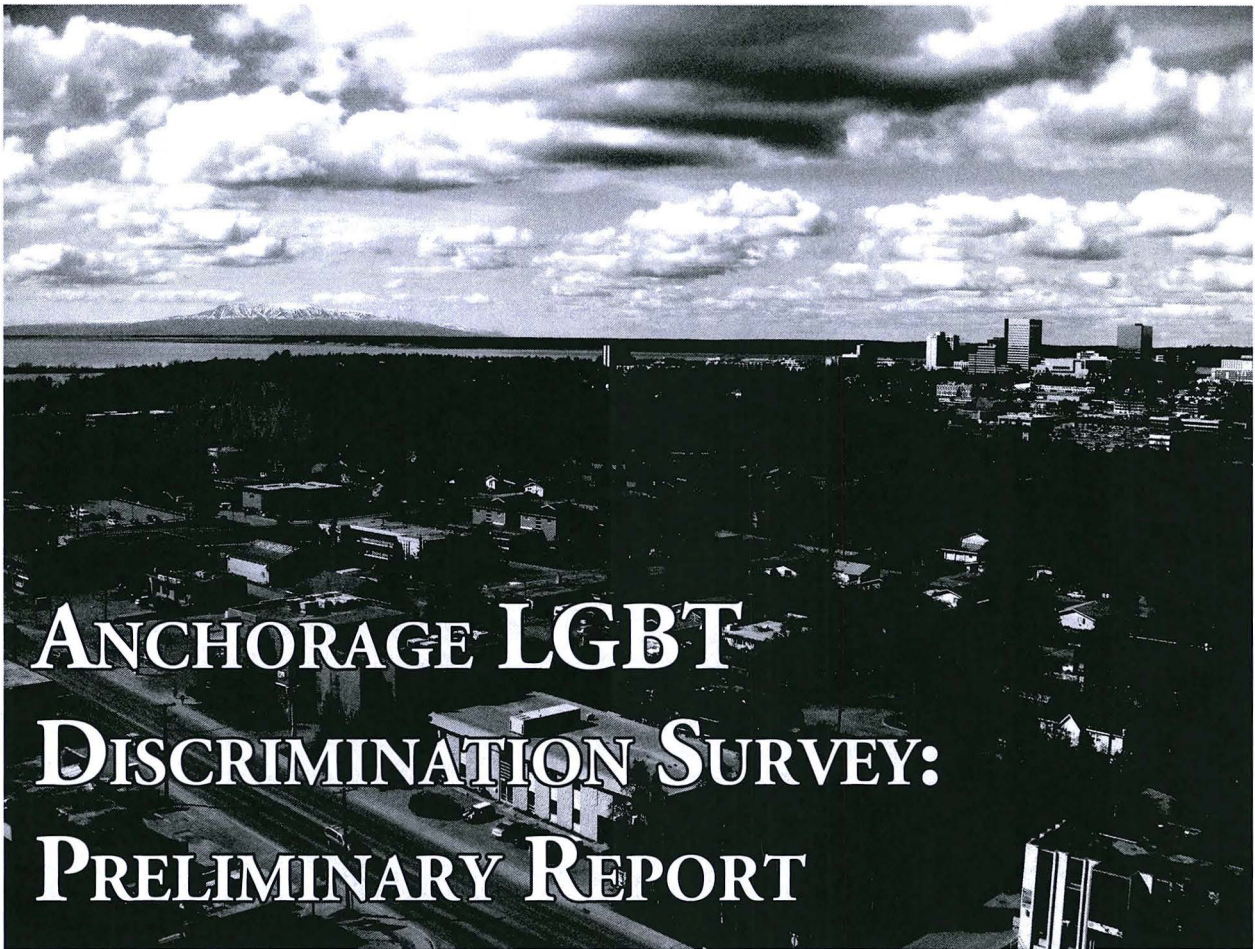
# Bipartisan Support for LGB

Do you favor or oppose laws that would protect transgender people against discrimination in the workplace and housing?

● Favor



Source: PRRI F



Melissa S. Green

NOVEMBER 2011

**identity**

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Anchorage LGBT Discrimination Survey

*Principal investigator:* Melissa S. Green

*Project manager:* Shelby Carpenter

*Design and production:* Melissa S. Green

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P.O. Box 200070  
Anchorage, AK 99520-0070

This report is available online at <http://www.identityinc.org/> or <http://alaskacommunity.org/>.

This study may be cited as:

Green, Melissa S. (2011). *Anchorage LGBT Discrimination Survey: Preliminary Report*. Anchorage, AK: Identity, Inc.



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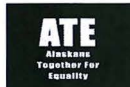
# ANCHORAGE LGBT DISCRIMINATION SURVEY: PRELIMINARY REPORT

by  
Melissa S. Green

Prepared for the Alaska LGBT Community Survey Task Force and its partner organizations:

Identity, Inc.  
Alaskan AIDS Assistance Association (Four A's)  
Alaskans Together for Equality  
American Civil Liberties Union of Alaska  
Equality Works

November 2011  
Anchorage, Alaska



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# CONTENTS

<b>Background</b> .....	<b>1</b>
<b>Estimating the LGBT population of Anchorage</b> .....	<b>1</b>
<b>Methodology</b> .....	<b>2</b>
<b>Respondent population</b> .....	<b>3</b>
Table 1. Gender Identity .....	3
Table 2. Sexual Orientation .....	3
Table 3. Residency in Anchorage .....	4
<b>Key findings</b> .....	<b>5</b>
Figure 1. Experience of Violence/Intimidation and Discrimination in Employment and Housing for All Respondents .....	5
Figure 2. Experience of Violence/Intimidation and Discrimination in Employment and Housing for Respondents Resident in Anchorage Less than Five Years .....	6
Recent discrimination .....	6
Violence, intimidation, harassment, and bullying .....	7
Employment .....	7
Housing/shelter .....	8
School/education .....	8
Figure 3. Experience of Discrimination in Education, Child Custody, and Public Services for All Respondents .....	9
Figure 4. Experience of Discrimination in Education, Child Custody, and Public Services for Respondents Resident in Anchorage Less than Five Years .....	10
Child custody/relationships .....	11
Public services .....	11
Relationship status .....	12
Figure 5. Comparison of Legal Marital Status and Actual Relationship Status .....	12
<b>Previous research</b> .....	<b>13</b>
Figure 6. Experience of Violence/Harassment and Discrimination in Alaska by <i>One in Ten</i> Respondents (1985) .....	14
<b>Conclusion</b> .....	<b>15</b>
<b>References</b> .....	<b>16</b>

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# ANCHORAGE LGBT DISCRIMINATION SURVEY: PRELIMINARY REPORT

This report presents key findings from the Anchorage LGBT Discrimination Survey, which was conducted in the Municipality of Anchorage, Alaska, from January through March 2011. The final report (forthcoming) will present more comprehensive information from the study, including methodology, complete demographic data on survey respondents, detailed analysis of the findings, and comments from survey respondents.

## Background

The Anchorage LGBT Discrimination Survey came about as a result of a perceived need for quantifiable data on the incidence of discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals in the Municipality of Anchorage. It represents the first effort since the late 1980s to compile rigorous data about the incidence of sexual orientation bias and discrimination in Anchorage — and the first effort ever to document Anchorage or Alaska-specific data about discrimination and bias on the basis of gender identity and expression.

The Anchorage LGBT Discrimination Survey is a collaborative project of the Alaska LGBT community and a coalition of Alaska organizations which serve the LGBT community, including Identity, Inc., the Alaskan AIDS Assistance Association (Four A's), Alaskans Together for Equality (ATE), Equality Works, and the American Civil Liberties Union (ACLU) of Alaska. The survey questionnaire and overall research project were designed by members of the Alaska LGBT Community Survey Task Force in consultation with Dr. Brad A. Myrstol and Khristy Parker of the Justice Center at the University of Alaska Anchorage. Shelby Carpenter, LGBT Public Policy Coordinator with the ACLU of Alaska during the first half of work on the survey, was project manager for survey distribution and data collection, assisted by Drew Phoenix. Dr. Myrstol conducted statistical analysis on the final dataset. The principal investigator for the study is Melissa S. Green, who prepared this report and is also writing the final report. Questions about the survey can be directed to her at [alaskacommunity@gmail.com](mailto:alaskacommunity@gmail.com).

## Estimating the LGBT population of Anchorage

The size of the LGBT population of the Municipality of Anchorage is difficult to estimate. Among the major obstacles in estimating LGBT populations in the U.S. is defining who should in the first place be identified as LGBT (Gates, 2011). Identifying the sexual orientation of a given survey's respondents as *lesbian*, *gay*, or *bisexual* may be based on self-identity, on same-sex sexual behavior or attraction, on relationships within a household, or on a combination of these. Identifying respondents as *transgender* is similarly complex — typically according to respondent self-identification as transgender, but the definition of *transgender* in a study may also depend upon various other aspects of gender expression or

gender nonconformity. Additionally, few surveys of general populations ask about sexual orientation or behavior; of those that do, few are representative of the population as a whole (Gates, 2008). The same can be said about surveys of general populations with reference to gender identity and expression.

Survey methodology can also have a bearing both on estimates of LGBT populations and upon LGBT respondents' willingness to report or respond honestly in surveys (Gates, 2011) due to stigmatization and fear of potential discrimination — issues which can also affect the ability of researchers to identify representative samples of LGBT populations (Sullivan & Losberg, 2003).

Gates (2011) estimates that 3.5 percent of adults in the United States self-identify as lesbian, gay, or bisexual (with substantially more who do not self-identify as LGB but nevertheless report having same-sex sexual experiences as adults), and that 0.3 percent self-identify as transgender. If these percentages hold true for the Municipality of Anchorage, of its 2010 population — estimated by the U.S. Census as 291,826 (including children under 18, about 26% of the population) — perhaps 10,214 Anchorage residents may (or may grow up to) self-identify as lesbian, gay, or bisexual, and another 875 may self-identify as transgender. Given the issues identified above, however, it is impossible to be certain.

## **Methodology**

The Anchorage LGBT Discrimination Survey was conducted in Anchorage from January through March 2011. Survey respondents had an option to complete the survey questionnaire using either a paper copy of the questionnaire or online using Survey Monkey. In order to control against individuals completing more than one survey and to ensure that only members of the intended study population participated — i.e., persons who identified themselves as gay, lesbian, bisexual, and/or transgender — personal identification numbers (PINs) were used. Respondents could obtain a PIN in one of two ways: (1) pre-printed coupon booklets with randomly assigned PIN numbers were distributed to project volunteers, who made use of their existing social networks within the LGBT community to distribute individual PINs; or (2) persons wishing to participate in the study could obtain a PIN by calling and requesting one from the project manager. Paper copies of the survey questionnaire could be obtained from the same people, or respondents could visit the website for the Survey Monkey version of the survey instrument and complete the questionnaire electronically.

The study's website was widely publicized in Anchorage LGBT and mainstream media, making it possible for people who were not part of the study population to complete a questionnaire online with self-invented (invalid) PINs; however, only questionnaires with valid PINs were included in the final dataset. Data was also reviewed to remove the few non-LGBT respondents who had somehow obtained PINs, as well as respondents who had not answered one or more of the three essential questions necessary to determine that they were eligible participants in the study: (1) the sex assigned them on their original birth certificates; (2) their current gender identity; and (3) their sexual orientation.

A more thorough discussion of survey methodology will be included in the final report.

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## Respondent population

A total of 268 respondents was included in the final dataset, including 243 non-transgender respondent and 25 transgender respondents (Table 1). Of the non-transgender respondents, 136 were male and 107 were female. The transgender respondents included 14 male-to-female (MTF) respondents — individuals who had been designated male on their birth certificates, but who now identify and live as, or hope to live as, female; 10 female-to-male (FTM) respondents — individuals whose original birth certificates designated them as female, but who identified and/or lived as male; and one “other” respondent.

This last respondent marked both male and female on the survey questionnaire. There are at least three possible explanations for this: (1) the respondent might have made an error in completing the survey; (2) the respondent might have resisted being categorized by gender or sexual orientation (the same respondent also identified as transgender — do not identify as exclusively male or female and as bisexual in sexual orientation); or (3) the respondent might have been designated at birth as intersex — a term used for people who have differences of sex development, such as being born with external genitalia, chromosomes, or internal reproductive systems that are not general associated with usual medical definitions of male or female.

Findings on respondents’ sexual orientation are shown in Table 2. Nearly three-quarters of the respondents (N=193; 72.3%) described themselves as being gay or lesbian. About one in five respondents (N=52; 19.5%) were bisexual; 19 (7.1%) described themselves as queer — a term in increasing use within the LGBT community by individuals who do not feel they fit within binary gender categories of male/masculine or female/feminine, but which is still widely considered pejorative. Two respondents (0.7%) said they were asexual. Only one respondent (0.4%) — a male-to-female transgender respondent — described herself as heterosexual. (Non-transgender heterosexuals were, of course, excluded from the study, which is intended to gain information about the experience of discrimination by LGBT people in Anchorage.)

**Table 1. Gender Identity**  
Column percentages.

	N	Percent
<b>Non-transgender</b>	<b>243</b>	<b>90.7 %</b>
Male	136	50.7
Female	107	39.9
<b>Transgender</b>	<b>25</b>	<b>9.3 %</b>
Transgender — male-to-female (MTF)	14	5.2
Transgender — female-to-male (FTM)	10	3.7
Other	1	0.4
<b>Total</b>	<b>268</b>	

**Table 2. Sexual Orientation**  
Row percentages.

Gender identity	Sexual orientation										Total
	Gay or lesbian		Bisexual		Queer		Heterosexual		Asexual		
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent	
<b>Male</b>	<b>117</b>	<b>80.1 %</b>	<b>19</b>	<b>13.0 %</b>	<b>10</b>	<b>6.8 %</b>	—	—	—	—	<b>146</b>
Non-transgender	116	85.3	14	10.3	6	4.4	—	—	—	—	136
Transgender female-to-male (FTM)	1	10.0	5	50.0	4	40.0	—	—	—	—	10
<b>Female</b>	<b>76</b>	<b>62.8</b>	<b>33</b>	<b>27.3</b>	<b>9</b>	<b>7.4</b>	<b>1</b>	<b>0.8 %</b>	<b>2</b>	<b>1.7 %</b>	<b>121</b>
Non-transgender	72	67.3	26	24.3	8	7.5	—	—	1	0.9	107
Transgender male-to-female (MTF)	4	28.6	7	50.0	1	7.1	1	7.1	1	7.1	14
<b>Other</b>	—	—	<b>1</b>	<b>100.0</b>	—	—	—	—	—	—	<b>1</b>
<b>Total</b>	<b>193</b>	<b>72.3 %</b>	<b>52</b>	<b>19.5 %</b>	<b>19</b>	<b>7.1 %</b>	<b>1</b>	<b>0.4 %</b>	<b>2</b>	<b>0.7 %</b>	<b>267</b>

One of the important goals of this study was to obtain, for the first time, Anchorage-specific information on discrimination experienced by transgender people, including any differences in discrimination that transgender people experience in comparison with non-transgender LGB respondents. Thus, distinguishing the gender identity of respondents was deemed more crucial to analyzing the findings than distinguishing between their sexual orientation. Throughout this report, data is presented for the total sample of 268 respondents; by comparing non-transgender and transgender respondents; and, among non-transgender respondents, by comparing male and female respondents. (Data analysis did not indicate large differences between MTF and FTM transgender respondents, so they are grouped together for purposes of discussion.)

Another key demographic characteristic used in this (and the final) report is length of residency within the Municipality of Anchorage. Information on residency is presented in Table 3. The vast majority of respondents were Anchorage residents; the few who were not (N=19; 7.1% of valid responses) included some respondents who had previously lived in Anchorage for some period of time; nonresidents who were living in Anchorage temporarily for school, work, or other reasons; and others who, while not residents, spent time in Anchorage for various reasons — for example, residents of the Matanuska-Susitna Borough who commuted for school or work.

Respondents who were residents (N=248; 92.9%) were asked how long they had lived in Anchorage. Of particular interest were the 50 respondents (20.3% of the resident respondents) who had lived in Anchorage for less than five years. Responses from this subsample of respondents were

**Table 3. Residency in Anchorage**

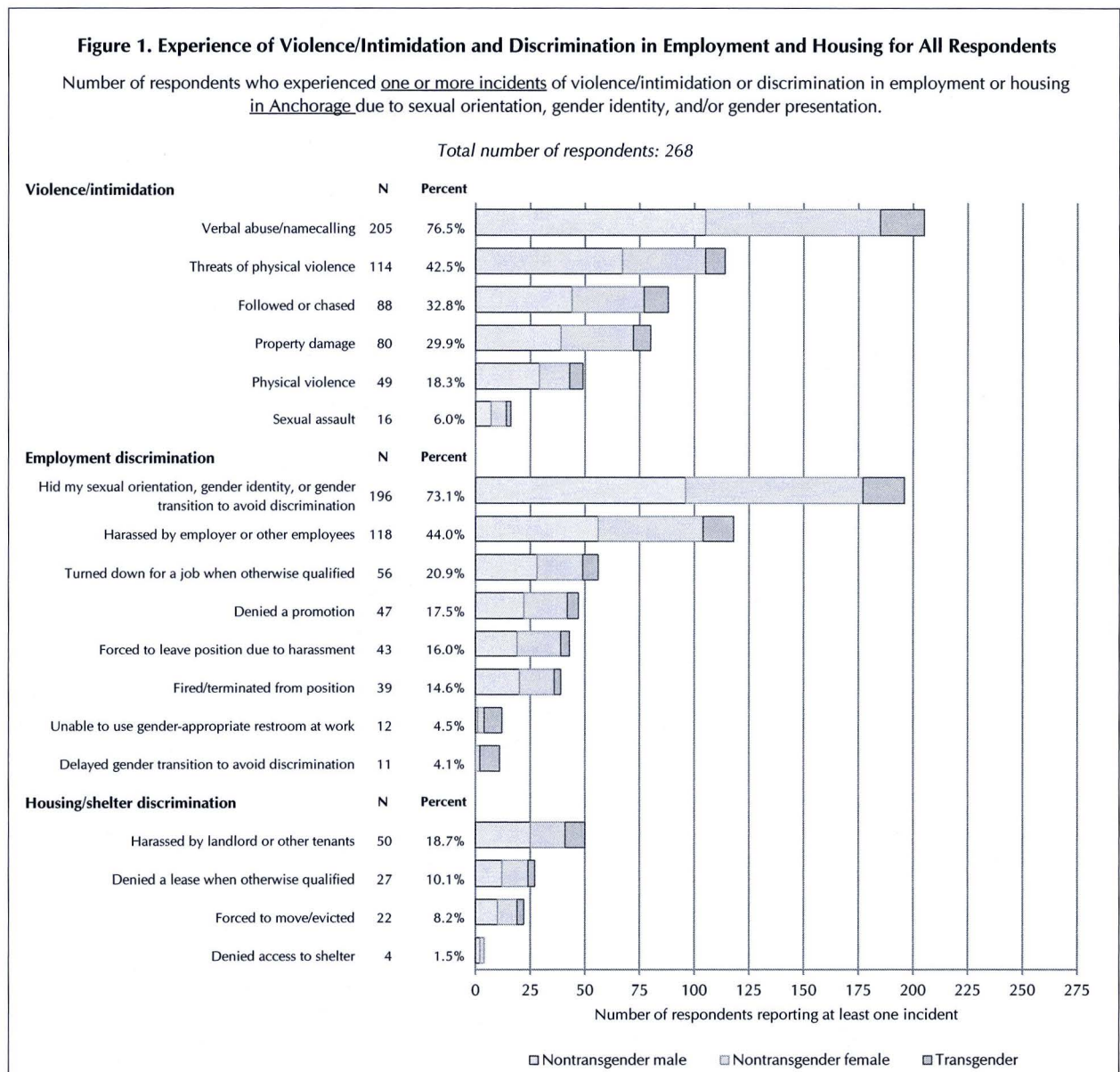
Column percentages.

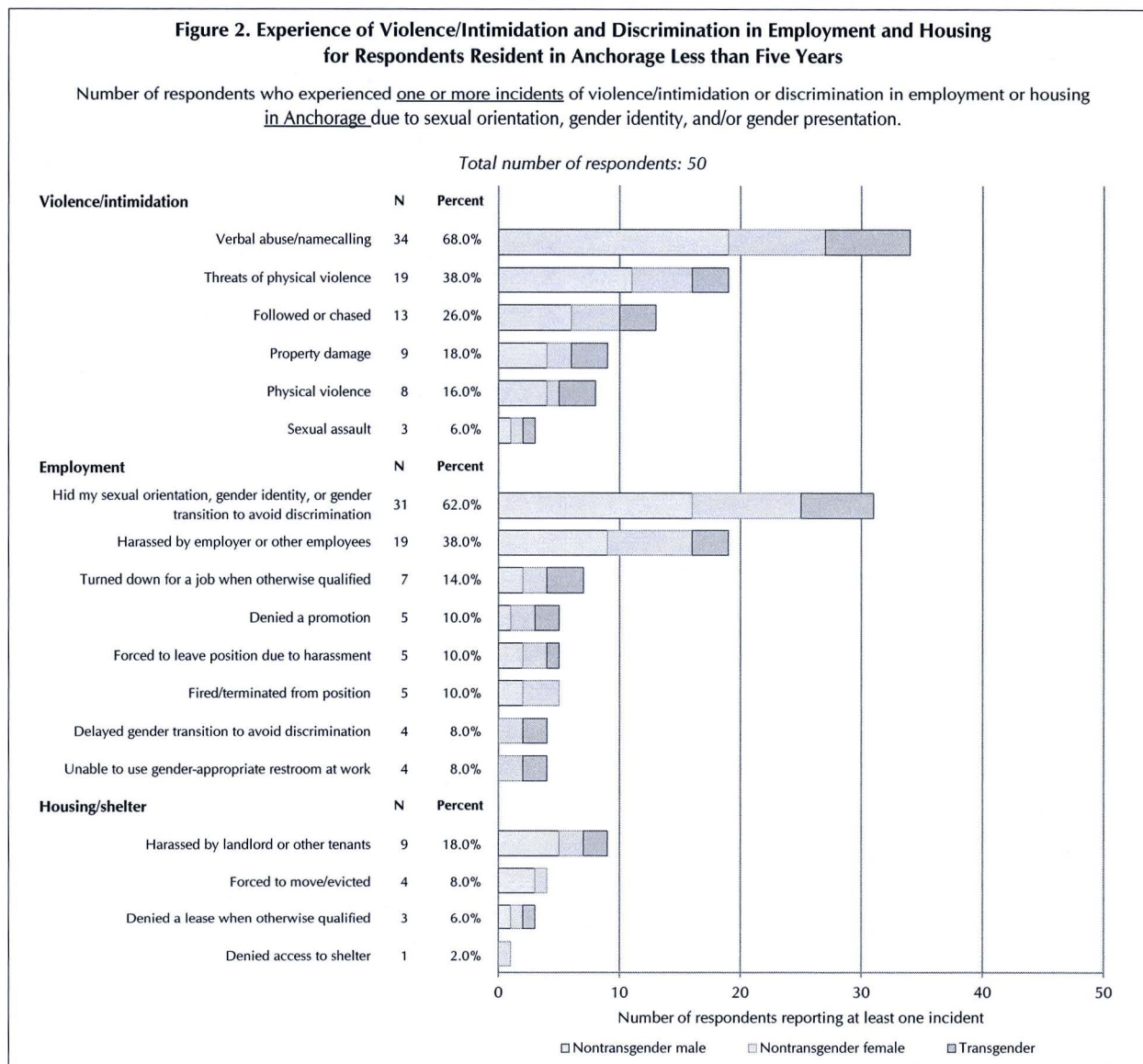
	Total (all)		Non-transgender						Transgender	
			Total		Male		Female			
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent
<b>Residence</b>										
Question 3. Are you <u>currently</u> a resident of the Municipality of Anchorage?										
Yes	248	92.9 %	226	93.4 %	127	93.4 %	99	93.4 %	22	88.0 %
No	19	7.1	16	6.6	9	6.6	7	6.6	3	12.0
<b>Total valid</b>	<b>267</b>		<b>242</b>		<b>136</b>		<b>106</b>		<b>25</b>	
Missing	1		1		0		1		0	
<b>Total</b>	<b>268</b>		<b>243</b>		<b>136</b>		<b>107</b>		<b>25</b>	
<b>Years of residence</b>										
[If yes to Question 3:] How long have you lived in Anchorage?										
Mean length of residence 17.5 years; range 0.4 to 62.2 years										
Less than 5 years	50	20.3 %	43	19.2 %	30	23.8 %	13	13.3 %	7	31.8 %
5 to less than 10	34	13.8	32	14.3	19	15.1	13	13.3	2	9.1
10 to less than 15	31	12.6	30	13.4	17	13.5	13	13.3	1	4.5
15 to less than 20	23	9.3	20	8.9	7	5.6	13	13.3	3	13.6
20 to less than 25	36	14.6	34	15.2	20	15.9	14	14.3	2	9.1
25 to less than 30	29	11.8	25	11.2	8	6.3	17	17.3	4	18.2
30 to less than 35	18	7.3	16	7.1	12	9.5	4	4.1	2	9.1
35 to less than 40	12	4.9	11	4.9	6	4.8	5	5.1	1	4.5
40 or more	13	5.3	13	5.8	7	5.6	6	6.1	0	0.0
<b>Total valid</b>	<b>246</b>		<b>224</b>		<b>126</b>		<b>98</b>		<b>22</b>	
Missing	2		2		1		1		0	
<b>Total</b>	<b>248</b>		<b>226</b>		<b>127</b>		<b>99</b>		<b>22</b>	

analyzed separately to obtain data on the experience of recent discrimination — within the past five years — by LGBT individuals in Anchorage.

**Key findings**

Figures 1 and 3 present summary data for discrimination and bias experienced in Anchorage reported by all 268 respondents in the study sample. Figures 2 and 4 present summary data on recent experience of discrimination and bias in Anchorage as reported by the subsample of 50 respondents who have lived in Anchorage for less than five years. All four figures use bar charts to show the number of respondents who had experienced one or more incidents *while in Anchorage* of each type of violence, intimidation, or discrimination asked about in the survey questionnaire. Frequency and percentages for the total sample in each table are also given; color coding within the bar charts gives a





visual indicator of the number of respondents from each population group — non-transgender male (green), non-transgender female (orange), and transgender (lavender) — who experienced each type of discrimination. (A complete breakdown of numbers and percentages for each population group will be included in the final report.)

In some instances, the discussion below includes numbers not shown in the figures. Complete tables will be included in the final report.

### *Recent discrimination*

- The 50 respondents who have lived in Anchorage less than five years reported experiencing discrimination/bias in Anchorage at only slightly lower rates than the survey sample as a whole, in spite of a much shorter span of time in Anchorage within which to accumulate experiences of discrimination. There were only a few types of discrimination/bias that this population did not report having experienced while in Anchorage (and which are therefore not shown in Figures 2 and 4), such as discrimination in child custody proceedings.

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*Violence, intimidation, harassment, and bullying*

- Verbal abuse/namecalling was by far the most frequently experienced form of anti-gay/anti-trans bias reported by respondents. 76.5% of the total study sample of 268 respondents and 68.0% of the subsample of 50 respondents who have lived in Anchorage for less than five years have experienced verbal abuse/namecalling at least once while in Anchorage.
- Experiences of various forms of harassment, intimidation, and bullying were fairly common. Of the total sample of 268 respondents, 42.5% had been threatened with physical violence, 32.8% had been followed or chased, and 29.9% had experienced property damage attributed to anti-LGBT bias. 18.3% had experienced actual physical violence in Anchorage because of their sexual orientation, gender identity, or gender presentation, and 6% had been sexually assaulted.
- Harassment and bullying were also common on the job and in rented housing. Of the total sample of 268 respondents, 44% had been harassed by their employer or other employees — 16% to the point of actually feeling forced to leave their jobs. 18.7% had been harassed by their landlord or other tenants.
- 41% of the total sample had been bullied or harassed by other students in Anchorage schools and educational institutions. 14.2% had been bullied or harassed by teachers, and 6.3% had been harassed to the point they were forced to leave school. These figures are especially remarkable given that many respondents had never attended school or college in Anchorage, indicating that rates at which LGBT students experience bullying and harassment in educational settings is probably higher.
- 13.4% of the total sample reported being harassed or verbally abused by medical providers. 8.6% of the total sample reported being harassed or verbally abused at least once by Anchorage police, and 7.5% said they had been stopped at least once by Anchorage police because of their sexual orientation or gender identity, without other justification for the stop.
- In general, non-transgender gay and bisexual men tended to report experiencing violence, intimidation, harassment, and bullying at higher rates than non-transgender lesbian and bisexual women.
- Transgender respondents reported higher rates of being followed or chased (44% for trans; 31.7% for non-trans) and of experiencing actual physical violence (24% for trans; 17.7% for non-trans).

*Employment*

- The second most common issue reported by respondents (after verbal abuse/harassment) was hiding their sexual orientation, gender identity, or gender transition in order to avoid job discrimination. 73.1% of the total sample and 62% of the respondents who had lived in Anchorage less than five years reported hiding in this way at least once to avoid job discrimination in Anchorage.
  - As previously noted, 44% of the total sample had been harassed by their employer or other employees — 16% to the point of actually feeling forced to leave their jobs.
  - 20.9% of the total sample said they had been turned down for a job when otherwise quali-
-

fired because of sexual orientation or gender identity/presentation, and 17.5% reported being denied a promotion at least one time.

- 14.6% reported being actually fired from a job at least once in Anchorage because of sexual orientation or gender identity/presentation.
- 4.5% of all respondents reported being unable to use gender-appropriate restrooms at work, and 4.1% said they delayed gender transition to avoid discrimination. These figures included about one third of all respondents who identified themselves as transgender.
- Non-transgender lesbian and bisexual women reported higher rates than non-transgender gay and bisexual men of having hidden their sexual orientation or gender identity/presentation at least once to avoid employment discrimination (75.7% for women; 70.6% for men); of being harassed on-the-job (44.9% for women; 41.2% for men); and of being actually forced to leave a position because of harassment (18.7% for women; 11.0% for men).
- Transgender respondents reported higher rates than non-transgender respondents of almost all types of employment discrimination evaluated in the survey. In particular, a higher percentage of transgender respondents experienced reported harassment by employers and coworkers (56.0% for trans; 42.8% for non-trans). Nearly a third of transgender respondents (32.%) were unable to use gender-appropriate bathrooms at work, and over a third (36.0%) said they had delayed gender transition to avoid job discrimination.

#### *Housing/shelter*

- As previously noted, 18.7% of the 268 respondents in the study reported having been harassed by Anchorage landlords or other tenants because of their sexual orientation or gender identity/presentation.
- Transgender respondents reported harassment from landlords and other tenants at a rate over twice that reported by non-transgender respondents (36.0% for trans; 16.9% for non-trans).
- 10.1% of the total sample said they had been denied a lease at least once when otherwise qualified. 8.2% of the total sample reported being evicted or forced to move at least once because of sexual orientation or gender identity/presentation.
- 1.5% of the total sample reported being denied access to shelter at least once.

#### *School/education*

- As previously noted, 41% of the total sample had been bullied or harassed by other students in an Anchorage educational setting. 14.2% had been bullied or harassed by teachers, and 6.3% had been harassed to the point they were forced to leave school.
  - 10.1% of the total sample said they had being denied participation in extracurricular activities because of sexual orientation or gender identity/presentation.
  - 1.9% reported being denied admission at least once to an Anchorage school or an academic program when otherwise qualified.
  - 1.1% were denied financial aid at least once. 0.7% reported being denied campus housing because of sexual orientation or gender identity/presentation.
-

- Non-transgender gay and bisexual men reported higher rates of almost all types of school/education discrimination than non-transgender lesbians and bisexual women. In particular,



non-transgender males had a higher rate of reporting bullying and harassment from other students (47.0% of men; 32.7% of women) and of actually having to leave school because of harassment (9.6% for men; 0.9% for women).

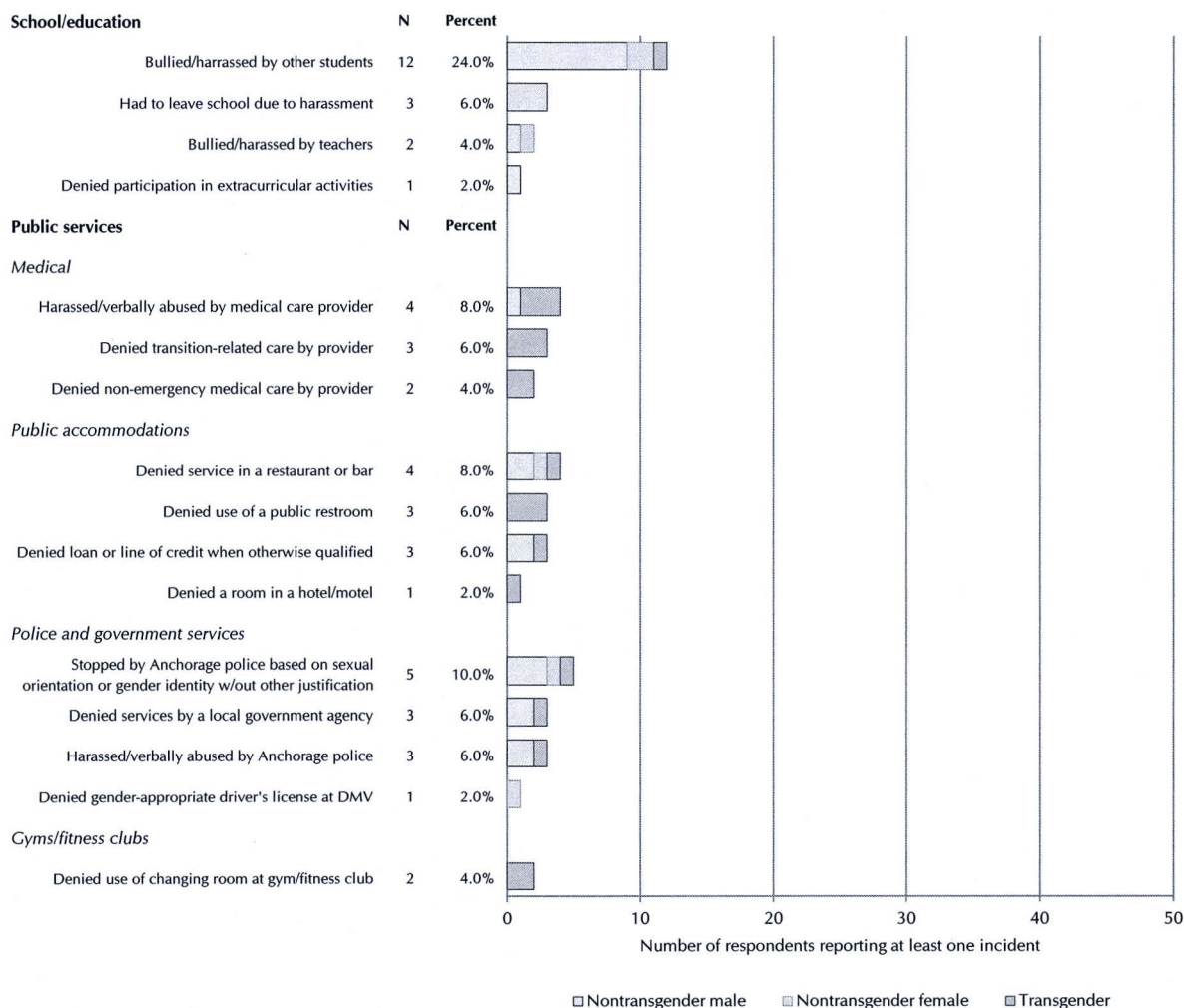
- Transgender and non-transgender respondents showed similar rates of being bullied or harassed by other students (40.0% of trans; 41.2% of non-trans); however, transgender respondents reported discrimination at higher rates than non-transgender respondents in all other categories of education discrimination evaluated in the survey. Nearly one-quarter (24.0%) of transgender respondents reported having been bullied or harassed at least once by Anchorage teachers, compared with 13.2 percent of non-transgender respondents; and this group reported over twice as high a rate of being denied participation in extracurricular activities (20.0% of trans; 9.1% of non-trans).

**Figure 4. Experience of Discrimination in Education and Public Services for Respondents Resident in Anchorage Less than Five Years**

Number of respondents who experienced one or more incidents of discrimination in education or public services in Anchorage due to sexual orientation, gender identity, and/or gender presentation.

Note: No respondents in this sample reported discrimination in child custody while in Anchorage.

Total number of respondents: 50



*Child custody/relationships*

- 4.5% of the total sample of 268 respondents reported that their sexual orientation or gender identity/presentation was used against them at least once in a child custody proceeding.
- 3.0% of all respondents had contact with their minor children restricted by a former spouse because of sexual orientation or gender identity/presentation.
- 0.7% of all respondents reported that custody of their children was restricted by a court because of sexual orientation or gender identity/presentation.
- Within the total sample of 268 respondents, a higher proportion of non-transgender lesbians and bisexual women than non-transgender gay or bisexual men reported that their sexual orientation or gender identity/presentation being used against them in a child custody proceeding (7.5% of women; 2.9% of men). Only one transgender respondent in the study (4.0%) reported an incident of discrimination in child custody/relationships while in Anchorage (contact with children restricted by a former spouse).
- These findings are based on the total study population of 268 respondents; but non-parents cannot, of course, experience issues related to child custody. A more accurate picture of child custody issues can be gained by noting that only 63 (23.7%) of the total study population reported having children, including 18 non-transgender male respondents, 26 non-transgender female respondents, and 9 transgender respondents. Thus, the rates at which LGBT respondents *who are actually parents* reported discrimination in child custody proceedings are higher. This issue will be discussed in greater depth in the final report.
- None of the 50 respondents who had lived less than five years in Anchorage reported having experienced issues with child custody proceedings while in Anchorage.

*Public services*

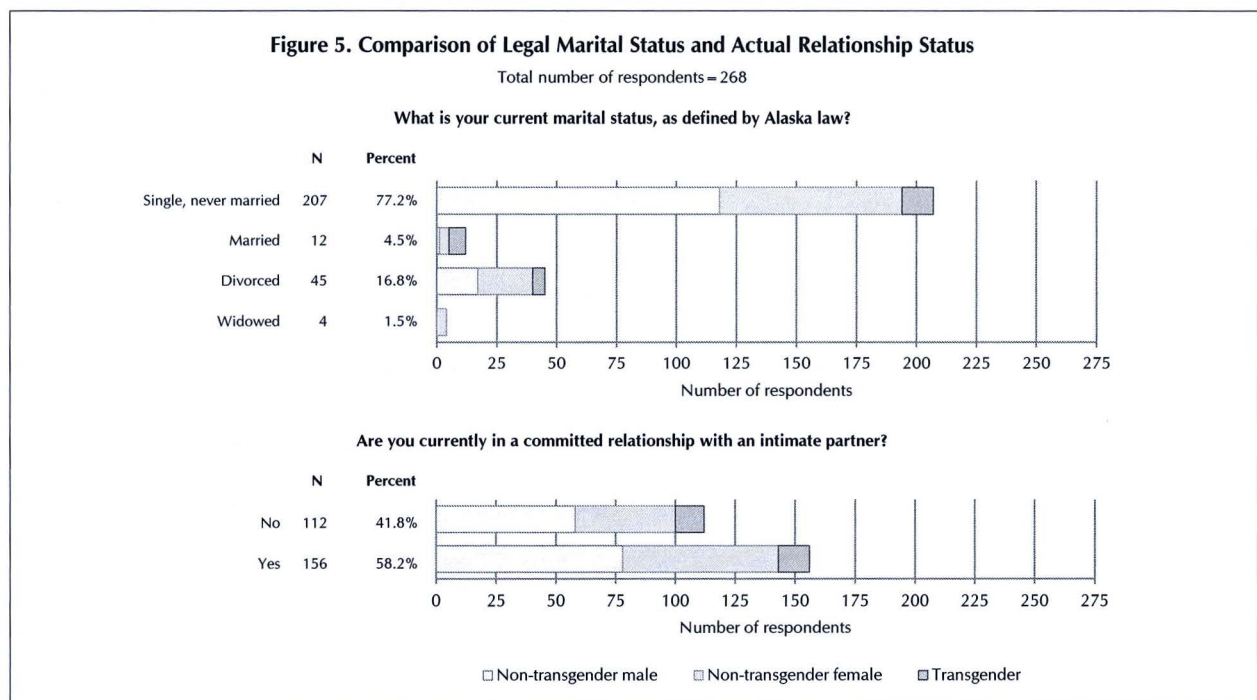
- As previously mentioned, 13.4% of the total sample reported being harassed or verbally abused by medical providers. This was the most frequently experienced form of public services discrimination reported. Respondents also reported three other forms of discrimination from Anchorage medical providers: 4.9% were denied non-emergency medical care; 4.1% were denied transition-related care; and 0.7% were denied emergency medical care at least once.
- The second most frequently reported form of public services discrimination was being denied service in a restaurant or bar: 13.1% of the total sample reported experiencing this at least once in Anchorage because of their sexual orientation or gender identity/presentation. 3.4% were denied a room in an Anchorage hotel or motel at least once; 6.0% were denied use of a public restroom; 10 (3.7%) were denied a loan or line of credit when otherwise qualified
- As previously noted, 8.6% of the total sample reported having been harassed or verbally abused by Anchorage police — the third most frequently reported form of public services discrimination. 7.5% reported being stopped by Anchorage police at least once because of their sexual orientation or gender identity, with no other justification for the stop — the fifth most frequently reported form of public services discrimination. In other government services, 1.9% of all respondents were denied gender-appropriate driver's licenses from the Alaska Division of

Motor Vehicles; 4.1% were denied services by a local government agency; and 1 respondent (0.4%) was denied a ride or forcibly removed from a People Mover bus.

- The fourth most frequently reported form of public services discrimination was being denied membership or access to a gym or fitness club, with 8.2% of the total sample reporting having experienced this form of discrimination. 3.7% were denied use of a changing room at a gym or fitness club.
- For every type of public services discrimination included in the survey, without exception, a higher proportion of transgender respondents than non-transgender respondents reported experiencing discrimination. In particular, 44% of transgender respondents reported having at least once been denied use of a public restroom while in Anchorage, compared with just 2.1% of non-transgender respondents. Over one-third of transgender respondents — 36.0% — had been harassed or verbally abused by medical providers, more than three times the percentage reported by non-transgender respondents (11.1%). Over a quarter of transgender respondents — 28.0% — reported being denied use of a changing room at a gym or fitness club, compared with only 1.2 percent of non-transgender respondents.
- Two categories of public services discrimination are fairly specific to transgender persons: transition-related care and gender-appropriate driver’s licenses. 40% of transgender respondents reported being denied transition-related care by an Anchorage medical provider, and 16% had been denied the appropriate gender marker on their driver’s license.

*Relationship status*

One additional form of discrimination that can be evaluated from survey data comes from the comparison of responses to two demographic questions asked of study participants: marital status



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as defined by Alaska law, and actual relationship status. As shown in Figure 5, more than three-quarters of respondents (N=207; 77.2%) stated that their legal status under Alaska law was single, never married; only 12 respondents (4.5%) were legally married under Alaska law. In contrast, well over half of the study participants (N=156; 58.2%) said that they were in committed relationships with intimate partners — relationships which are unrecognized in law except in limited contexts, such as with domestic partner benefits for same-sex partners of State of Alaska employees or “financially interdependent partner” benefits in the University of Alaska system.

(The 1998 amendment to the Alaska Constitution defining marriage as being only between “one man and one woman” prohibits same-sex marriage; it must be remembered that bisexual participants who may be married to partners of the opposite sex are included in this study.)

### Previous research

In the 1980s, Identity, Inc. conducted two major research efforts to document sexual orientation bias in Alaska. *One in 10: A Profile of Alaska's Lesbian & Gay Community* (Identity, 1986), reported the results of a statewide survey of 734 lesbian, gay, and bisexual Alaskans conducted in 1985. *Identity Reports: Sexual Orientation Bias in Alaska* (Green & Brause, 1989), included three papers, including “Closed Doors,” a survey of Anchorage employers and landlords; and “Prima Facie,” which presented case studies of 84 cases of violence, harassment, and discrimination in Alaska due to sexual orientation bias.

Of the 734 respondents to *One in 10* — 63% of whom were residents of the Municipality of Anchorage:

- 61% reported being victimized by violence and harassment while in Alaska because of their sexual orientation (ranging from verbal abuse/harassment, reported by 58%, to physical violence, 11%, and sexual assault, 5%);
- 39% reported discrimination in employment, housing, and loans/credit; and
- 33% reported discrimination from services and institutions.

From the “Closed Doors” component of *Identity Reports*:

- 31% of the 191 Anchorage employers in the survey said they would not hire or promote or would fire someone they had reason to believe was homosexual.
- 20% of the 178 Anchorage landlords in the survey said they would not rent to or would evict someone they had reason to believe was homosexual.

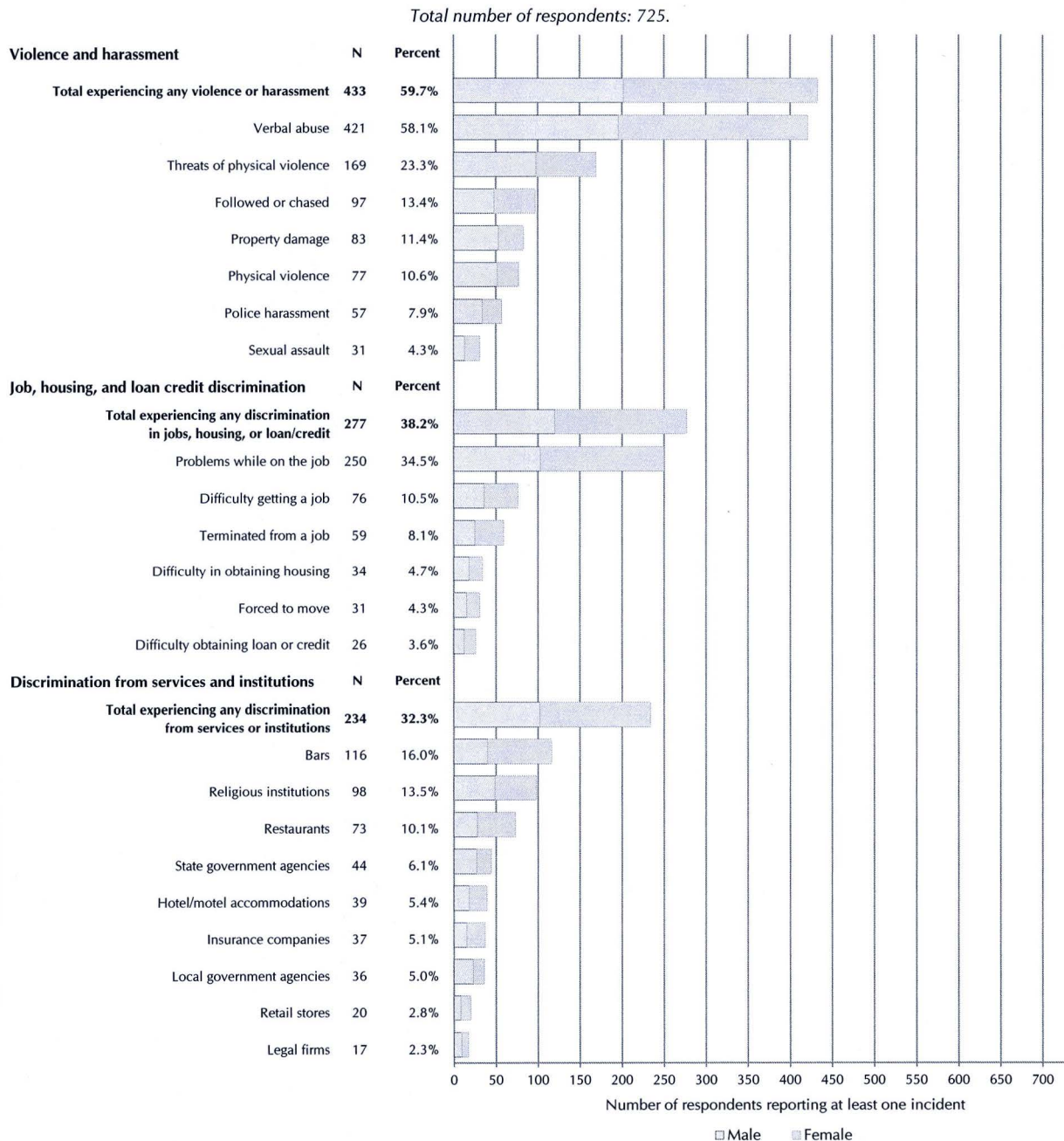
From the “Prima Facie” component of *Identity Reports*:

- 84 case histories of anti-gay bias, discrimination, harassment, or violence (including three murders) were documented involving 30 men and 21 women. 64 of these cases took place in Anchorage.
-

- A former intake investigator with the Alaska Human Rights Commission reviewed the 42 discrimination cases in “Prima Facie” that were based on personal testimony (as opposed to documentary accounts from newspapers or court records) and found that 32 of those cases would have been “definitely” jurisdictional under Alaska state human rights law — that is, the

**Figure 6. Experience of Violence/Harassment and Discrimination in Alaska by One in Ten Respondents (1985)**

Number of gay, lesbian, and bisexual respondents who experienced one or more incidents of violence/harassment or discrimination in Alaska due to sexual orientation. Data was collected in 1985.



Note: One in Ten did not collect data on transgender persons. 63% of the 725 respondents were residents of the Municipality of Anchorage.

Source of data: Identity, Inc., *One in Ten: A Profile of Alaska's Lesbian & Gay Community* (1986).

commission would investigate these cases if complaints were made — if the law had included protection from discrimination on the basis of sexual orientation.

- Victims were predominately gay men or lesbians, but also included heterosexuals who were erroneously assumed to be gay or lesbian.

## Conclusion

On June 15, 2009, testimony about findings from *One in Ten* and *Identity Reports* was offered before the Anchorage Assembly during public hearings on Anchorage Ordinance 2009-64, which would have added *sexual orientation* and *gender identity* to Title 5, the Municipality of Anchorage's equal rights code.

In spite of this evidence, and in spite of testimony presented by several Anchorage citizens who recounted their own stories of recent discrimination in Anchorage, one of the chief arguments used by ordinance opponents was that there was no evidence of discrimination against lesbian, gay, bisexual, and transgender (LGBT) people in the Municipality of Anchorage. Mayor Dan Sullivan echoed those arguments when, less than a week after the Anchorage Assembly passed AO-64 by a vote of 7 to 4, he vetoed the measure, stating, "My review shows that there is clearly a lack of quantifiable evidence necessitating this ordinance."

The Anchorage LGBT Discrimination Survey is a response to those arguments, representing the first effort since the late 1980s to quantify the incidence of anti-LGBT discrimination in the Municipality of Anchorage.

Due to the inherent difficulties in estimating LGBT populations, discussed previously, it is impossible to know with any certainty what proportion of Anchorage's LGBT population responded to this survey or how representative the study population is of the LGBT community in the Municipality as a whole. What *is* certain is that discrimination, harassment, and bias are as commonly experienced by gay, lesbian, and bisexual residents of the Municipality of Anchorage now as was the case a quarter of a century ago, when data collection for *One in Ten* took place. Furthermore, for the first time there is quantitative evidence that discrimination, harassment, and bias are also commonly experienced by transgender residents of the Municipality.

More in-depth and comprehensive information from the study is forthcoming in the project's final report, to be released in December 2011.

In the meantime, on behalf of the Alaska LGBT Community Survey Task Force and all its individual and organizational members, I would like to thank all the respondents who took part in this survey and helped to bring quantifiable evidence of their experience of discrimination in the Municipality of Anchorage to public attention. May the public take note.

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- U.S. Census Bureau. (27 Oct 2011). "State and County QuickFacts: Anchorage Municipality, Alaska." Data derived from Population Estimates, American Community Survey, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report. Last revised: Thursday, 27-Oct-2011 16:45:08 EDT. (<http://quickfacts.census.gov/qfd/states/02/02020.html>).
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# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

**BILL WALKER, GOVERNOR**

800 A STREET, SUITE 204  
ANCHORAGE, ALASKA 99501-3669  
PHONE: (907) 274-4692 / 276-7474  
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### RESOLUTION 2016-2

**WHEREAS**, Alaska's Human Rights Law, AS 18.80, currently prohibits discrimination based on race, religion, color, national origin, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy or parenthood;

**WHEREAS**, the Municipality of Anchorage and the City & Borough of Juneau assemblies have both passed non-discrimination ordinances for Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) residents;

**WHEREAS**, the above referenced laws and orders are commendable progress in protecting the human rights of Alaska's LGBTQ residents, there is currently no holistic and comprehensive statewide regime for legal recourse concerning LGBTQ discrimination, resulting in inadequate enforcement and protection of LGBTQ residents;

**WHEREAS**, the Alaska State Commission for Human Rights recalls Resolution 83-01 (February 26, 1983) which reiterates the Commission's important charge to help "set policy and interpret Alaska's Human Rights Law" and to "direct the activities of the chief civil rights enforcement agency in the state";

**WHEREAS**, the Alaska State Commission for Human Rights is cognizant of these important and vital components of its mission and also maintains high awareness of other states' and national human and civil rights enforcement organizations, noting the Equal Employment Opportunity Commission's interpretation of Title VII of the 1964 Civil Rights Act as prohibiting employment discrimination on the basis of sexual orientation and/or gender identity or expression;

**WHEREAS**, the Alaska State Commission for Human Rights recalls Resolution 90-01 (February 27, 1990) to raise awareness of anti-LGBTQ discrimination and encourage efforts to provide equal protection for Alaska's LGBTQ citizens; and

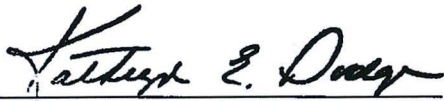
**WHEREAS**, the Alaska State Commission for Human Rights recalls and applauds recent efforts by state legislators of both parties with the introduction of HB139 (2013), HB19, HB42 and SB20 (2015) to revise the Alaska Human Rights Law, AS 18.80, to expressly prohibit discrimination on the basis of sexual orientation or gender identity and expression.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights:

1. calls on the Alaska State Legislature to revise the Alaska Human Rights Law, AS. 18.80, to expressly prohibit discrimination on the basis of sexual orientation or gender identity and expression, and
2. requests that its staff work with the Department of Law to draft proposed regulations addressing the inclusion of prohibitions against discrimination on the basis of sexual orientation or gender identity and expression under the existing law prohibiting sex discrimination and to consider in that process the administrative application of the EEOC's interpretation of Title VII of the 1964 Civil Rights Act prohibiting employment discrimination on the basis of sexual orientation and/or gender identity or expression.

Copies of this resolution shall be forwarded to the Office of the Governor and all members of the Alaska State Legislature.

**ADOPTED** at Anchorage, Alaska, this 2<sup>nd</sup> day of November 2016.



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Kathryn Dodge, Acting Chairperson  
Alaska State Commission for Human Rights

**STATE OF ALASKA**

**Alaska State Commission for Human Rights  
Roll Call Sheet  
Vote on Resolution 2016-2**

**ANCHORAGE, ALASKA**

**COMMISSION MEETING  
November 2, 2016**

<u>COMMISSIONER</u>	<u>YES/NO/NOT PRESENT</u>
<i>Chairperson Lester Lunceford</i>	<u>Not Present</u>
<i>Vice Chairperson Kathryn Dodge</i>	<u>YES</u>
<i>Commissioner Christa Bruce</i>	<u>YES</u>
<i>Commissioner Michele Christiansen</i>	<u>Not Present</u>
<i>Commissioner Jason Hart</i>	<u>YES</u>
<i>Commissioner Grace Merkes</i>	<u>NO</u>
<i>Commissioner Brandon Nakasato</i>	<u>YES</u>



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## Examples of Court Decisions Supporting Coverage of LGBT-Related Discrimination Under Title VII

### Supreme Court Decisions on the Scope of Title VII's Sex Discrimination Provision

[Oncale v. Sundowner Offshore Services](#), 523 U.S. 75 (1998). The Supreme Court held that same-sex harassment is sex discrimination under Title VII. Justice Scalia noted in the majority opinion that, while same-sex harassment was "assuredly not the principal evil Congress was concerned with when it enacted Title VII . . . statutory prohibitions often go beyond the principal evil [they were passed to combat] to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed. Title VII prohibits 'discriminat[ion] . . . because of . . . sex.' [This] . . . must extend to [sex-based] discrimination of any kind that meets the statutory requirements." *Id.* at 79-80.

[Price Waterhouse v. Hopkins](#), 490 U.S. 228 (1989). The Supreme Court recognized that employment discrimination based on sex stereotypes (e.g., assumptions and/or expectations about how persons of a certain sex should dress, behave, etc.) is unlawful sex discrimination under Title VII. Price Waterhouse had denied Ann Hopkins a promotion in part because other partners at the firm felt that she did not act as woman should act. She was told, among other things, that she needed to "walk more femininely, talk more femininely, [and] dress more femininely" in order to secure a partnership. *Id.* at 230-31, 235. The Court found that this constituted evidence of sex discrimination as "[i]n the . . . context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender." *Id.* at 250. The Court further explained that Title VII's "because of sex" provision strikes at the "entire spectrum of disparate treatment of men and women resulting from sex stereotypes." *Id.* (quoting [City of Los Angeles Dept of Water & Power v. Manhart](#), 435 U.S. 702, 707 n.13 (1978) (internal citation omitted)).

### Federal Court Decisions Supporting Coverage for Transgender Individuals as Sex Discrimination

[G.G. ex rel. Grimm v. Gloucester Cty. Sch. Bd.](#), 822 F.3d 709 (4th Cir. Apr. 19, 2016). ), mandate recalled and stayed, 136 S. Ct. 2442 (Aug. 3, 2016), cert. granted, 2016 WL 4565643 (Oct. 28, 2016). The district court dismissed a Title IX sex discrimination claim brought by a transgender boy high school student who was denied access to the boys' restroom. Reversing and remanding the case for further proceedings, the Court of Appeals held: "At the heart of this appeal is whether Title IX requires schools to provide transgender students access to restrooms congruent with their gender identity," and the district court failed to give appropriate deference to the U.S. Department of Education's interpretation of how its

own sex discrimination regulation should apply to transgender students. That interpretation was set forth in a January 15, 2015 letter from the Department's Office for Civil Rights, which advised: "When a school elects to separate or treat students differently on the basis of sex . . . a school generally must treat transgender students consistent with their gender identity." See also Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep't of Educ., 2:16-CV-524, 2016 WL 6125403 (S.D. Ohio Oct. 20, 2016); Students v. U.S. Dep't of Educ., No. 16-cv-4945, 2016 WL 6134121 (N.D. Ill. Oct. 18, 2016).

Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011). The plaintiff, a transgender female, brought a claim under 42 U.S.C. § 1983 alleging unlawful discrimination based on sex in violation of the Equal Protection Clause when she was terminated from her position with the Georgia General Assembly. Relying on Price Waterhouse and other Title VII precedent, the court concluded that the defendant discriminated against the plaintiff based on her sex by terminating her because she was transitioning from male to female. The court stated that a person is considered transgender "precisely because of the perception that his or her behavior transgresses gender stereotypes." As a result, there is "congruence" between discriminating against transgender individuals and discrimination on the basis of "gender-based behavioral norms." Because everyone is protected against discrimination based on sex stereotypes, such protections cannot be denied to transgender individuals. "The nature of the discrimination is the same; it may differ in degree but not in kind." The court further concluded that discrimination based on sex stereotypes is subject to heightened scrutiny under the Equal Protection Clause, and government termination of a transgender person for his or her gender nonconformity is unconstitutional sex discrimination. Although in this case the defendant asserted that it fired the plaintiff because of potential lawsuits if she used the women's restroom, the record showed that the plaintiff's office had only single-use unisex restrooms, and therefore there was no evidence that the defendant was actually motivated by litigation concerns about restroom use. The defendant provided no other justification for its action, and therefore, the plaintiff was entitled to summary judgment.

Smith v. City of Salem, 378 F.3d 566 (6th Cir. 2004). The plaintiff alleged that he was suspended based on sex after he began to express a more feminine appearance and notified his employer that he would eventually undergo a complete physical transformation from male to female. The court held that Title VII prohibits discrimination against transgender individuals based on gender stereotyping. The court determined that discrimination against an individual for gender-nonconforming behavior violates Title VII irrespective of the cause of the behavior. The court reasoned that the "narrow view" of the term "sex" in prior case law denying Title VII protection to transgender employees was "eviscerated" by Price Waterhouse, in which the Supreme Court held that Title VII protected a woman who failed to conform to social expectations about how women should look and behave.

Barnes v. City of Cincinnati, 401 F.3d 729 (6th Cir. 2005). Plaintiff, who "was a male-to-female transsexual who was living as a male while on duty but often lived as a woman off duty [and] had a reputation throughout the police department as a homosexual, bisexual or cross-dresser," alleged he was demoted because of his failure to conform to sex stereotypes. The court held that this stated a claim of sex discrimination under Title VII.

Rosa v. Parks W. Bank & Trust Co., 214 F.3d 213 (1st Cir. 2000). Citing Title VII case law, the court concluded that a transgender plaintiff, who was biologically male, stated a claim of sex discrimination under the Equal Credit Opportunity Act by alleging that he was denied a loan application because he was dressed in traditionally female attire.

Schwenck v. Hartford, 204 F.3d 1187, 1201-02 (9th Cir. 2000). Citing Title VII case law, the court concluded that a transgender woman stated a claim of sex discrimination under the

Gender Motivated Violence Act based on the perception that she was a "man who 'failed to act like one.'" The court noted that "the initial approach" taken in earlier federal appellate Title VII cases rejecting claims by transgender plaintiffs "has been overruled by the language and logic of Price Waterhouse."

Roberts v. Clark Cty. Sch. Dist., No. 2:15-cv-00388-JAD-PAL, 2016 WL 5843046 (D. Nev. Oct. 4, 2016). Expressly adopting the EEOC's holdings in Macy v. Dep't of Justice, EEOC Appeal No. 0120120821, 2012 WL 1435995 (Apr. 20, 2012), and Lusardi v. Dep't of the Army, EEOC Appeal No. 0120133395, 2015 WL 1607756 (Apr. 1, 2015), the court ruled that plaintiff, a transgender school police officer, was subjected to sex discrimination in violation of Title VII when he was told by his employer that he could not use either the men's or women's bathroom at work. See also Mickens v. General Electric Co., 2016 WL 7015665 (W.D. Ky. Nov. 29, 2016) (denying employer's motion to dismiss similar Title VII claim).

Fabian v. Hospital of Central Connecticut, No. 3:12-cv-1154, 2016 WL 1089178 (D. Conn. Mar. 18, 2016). Plaintiff, an orthopedic surgeon, brought a Title VII sex discrimination claim alleging she was not hired because she disclosed her identity as a transgender woman who would begin work after transitioning to presenting as female. Analyzing Title VII's legislative history and case law in extensive detail, the court held that Price Waterhouse abrogates the narrow view of Title VII's plain language that previously excluded sex discrimination claims by transgender individuals, citing supportive rulings by the 6th, 9th, and 11th Circuits, as well as the EEOC's decision in Macy. See also Adkins v. City of New York, 2015 WL 7076956 (S.D.N.Y. Nov. 15, 2015) (allowing equal protection claim by transgender individual to proceed under 42 U.S.C. Section 1983).

EEOC v. R.G. & G.R. Harris Funeral Homes, Inc., 100 F. Supp. 3d 594, 2015 (E.D. Mich. 2015). Denying the employer's motion to dismiss a Title VII sex discrimination claim brought on behalf of a terminated funeral home employee who was a transgender woman, the court held: "[I]f the EEOC's complaint had alleged that the Funeral Home fired Stephens based solely upon Stephens's status as a transgender person, then this Court would agree with the Funeral Home that the EEOC's complaint fails to state a claim under Title VII. But the EEOC's complaint also asserts that the Funeral Home fired Stephens 'because Stephens did not conform to the [Funeral Home's] sex- or gender-based preferences, expectations, or stereotypes' (Compl. at ¶ 15). And binding Sixth Circuit precedent establishes that any person without - regard to labels such as transgender - can assert a sex-stereotyping gender-discrimination claim under Title VII, under a Price Waterhouse theory, if that person's failure to conform to sex stereotypes was the driving force behind the termination. This Court therefore concludes that the EEOC's complaint states a claim as to Stephens's termination."

Lewis v. High Point Regional Health System, 79 F. Supp. 588 (E.D.N.C. 2015). Plaintiff, a certified nursing assistant, alleged she was denied hire for several positions because of her transgender status. At the time of her interviews, she was anatomically male, and was undergoing hormone replacement therapy in preparation for sex reassignment surgery in the future. The district court denied the employer's motion to dismiss the case because the employer had argued only that sexual orientation was not covered under Title VII and sexual orientation and gender identity are two distinct concepts. The court therefore allowed plaintiff's transgender discrimination claim to proceed under Title VII.

Finkle v. Howard Cnty., Md., 122 Fair Empl. Prac. Cas. (BNA) 861, 2014 WL 1396386 (D. Md. Apr. 10, 2014). Denying the county's motion to dismiss or for summary judgment on a Title VII claim brought by a volunteer auxiliary police officer, the court ruled that the officer was an "employee" for Title VII purposes, and that her claim that she was discriminated against "because of her obvious transgendered status" raised a cognizable claim of sex

discrimination. The court reasoned: "[I]t would seem that any discrimination against transsexuals (as transsexuals) - individuals who, by definition, do not conform to gender stereotypes - is proscribed by Title VII's proscription of discrimination on the basis of sex as interpreted by Price Waterhouse. As Judge Robertson offered in Schroer v. Billington, 577 F. Supp. 2d 293 (D.D.C. 2008), "[u]ltimately I do not think it matters for purposes of Title VII liability whether the Library withdrew its offer of employment because it perceived Schroer to be an insufficiently masculine man, an insufficiently feminine woman, or an inherently gender-nonconforming transsexual."

Parris v. Keystone Foods, 2013 WL 4010288 (N.D. Ala. Aug. 7, 2013), appeal dismissed, No. 13-14495-D (11<sup>th</sup> Cir. Dec. 26, 2013). Plaintiff, a transgender female, alleged that she was discharged from her job at a chicken processing facility because of her "gender non-conformity." The district court, citing Glenn v. Brumby, recognized that the plaintiff's claims were covered by Title VII's sex discrimination prohibitions, but granted summary judgment to the employer on the ground that plaintiff's comparator evidence and evidence of discriminatory remarks by coworkers did not show that her discharge was motivated by her gender identity as opposed to the legitimate non-discriminatory reason proffered by the employer.

Radtke v. Miscellaneous Drivers & Helpers Union Local #638 Health, Welfare, Eye, & Dental Fund, 867 F. Supp. 2d 1023 (D. Minn. 2012). Assessing a claim under ERISA for wrongful termination of benefits to a legal spouse of a transgender individual, the court quoted the language from Smith v. City of Salem that the Supreme Court's decision in Price Waterhouse "eviscerated" the "narrow view" of "sex" articulated in earlier Title VII cases, and observed: "An individual's sex includes many components, including chromosomal, anatomical, hormonal, and reproductive elements, some of which could be ambiguous or in conflict within an individual."

Schroer v. Billington, 577 F. Supp. 2d 293 (D.D.C. 2008). The plaintiff, a transgender female, was offered a position as a terrorism research analyst before she had changed her name and begun presenting herself as a woman. After the plaintiff notified the employer that she was under a doctor's care for gender dysphoria and would be undergoing gender transition, the employer withdrew the offer, explaining that the plaintiff would not be a "good fit." The court stated that since the employer refused to hire the plaintiff because she planned to change her anatomical sex by undergoing sex reassignment surgery, the employer's decision was literally discrimination "because of ... sex." The court analogized the plaintiff's claim to one in which an employee is fired because she converted from Christianity to Judaism, even though the employer does not discriminate against Christians or Jews generally but only "converts." Since such an action would be a clear case of discrimination "because of religion," Title VII's prohibition of discrimination "because of sex" must correspondingly encompass discrimination because of a change of sex. The court concluded that decisions rejecting claims by transgender individuals "represent an elevation of 'judge-supposed legislative intent over clear statutory text,'" which is "no longer a tenable approach to statutory construction."

Lopez v. River Oaks Imaging & Diagnostic Group, Inc., 542 F. Supp. 2d 653 (S.D. Tex. 2008). The plaintiff alleged that she was subjected to sex discrimination when the employer rescinded its job offer after learning that she was transgender. Denying the employer's motion for summary judgment, the court concluded that the plaintiff's claim was actionable as sex discrimination under Title VII on the theory that she failed to comport with the employer's notions of how a male should look. A finder of fact might reasonably conclude that the employer's statement that the job offer was rescinded because she had "misrepresented"

herself as female reflected animus against individuals who do not conform to gender stereotypes.

Mitchell v. Axcan Scandipharm, Inc., No. 05-243, 2006 WL 456173, at \*2 (W.D. Pa. 2006). Plaintiff alleged sex-based harassment and termination in violation of Title VII after the employer learned that plaintiff had been diagnosed with gender identity disorder and plaintiff began presenting at work as a female after having presented as a male during the first four years of employment. Denying the employer's motion to dismiss, the court held that because the complaint "included facts showing that his failure to conform to sex stereotypes of how a man should look and behave was the catalyst behind defendant's actions, plaintiff has sufficiently pleaded claims of gender discrimination."

Tronetti v. TLC HealthNet Lakeshore Hosp., No. 03-cv-375E, 2003 WL 22757935, at \*4 (W.D.N.Y. 2003). Relying on the reasoning in Schwenck v. Hartford, 204 F.3d 1187, 1201-02 (9th Cir. 2000), the court ruled that plaintiff's sex discrimination claims of hostile work environment harassment and discriminatory discharge arising from her transition and sex reassignment surgery were actionable under Title VII, based on factual allegations that she was discriminated against for "failing to act like a man." See also Doe v. United Consumer Fin. Servs., No. 1:01-cv-1112, 2001 WL 34350174, at \*2-5 (N.D. Ohio 2001).

Creed v. Family Express Corp., 101 Fair Empl. Prac. Cas. (BNA) 609, 2007 WL 2265630 (N.D. Ind. Aug. 3, 2007). The plaintiff, a transgender female, alleged facts permitting an inference that she was terminated because of gender stereotypes; specifically, that she was perceived by her employer to be a man while employed as a sales associate and was fired for refusing to present herself in a masculine way. See also Hunter v. United Parcel Serv., 697 F.3d 697 (8th Cir. 2012) (affirming summary judgment for the employer under both Title VII and state law, the court did not rule that such discrimination was not actionable under Title VII, but rather that there was no evidence that the prospective employer knew or perceived that plaintiff was transgender during the job interview, and therefore a prima facie case of sex discrimination was not established).

Miles v. New York Univ., 979 F. Supp. 248, 249-50 (S.D.N.Y. 1997). Noting that the phrase "on the basis of sex" in Title IX is interpreted in the same manner as similar language in Title VII, the court held that a transgender female student could proceed with a claim that she was sexually harassed "on the basis of sex" in violation of Title IX.

## Federal Court Decisions Supporting Coverage of Sexual Orientation-Related Discrimination as Sex Discrimination

Muhammad v. Caterpillar Inc., 767 F.3d 694 (7th Cir. Sept. 9, 2014, as amended on denial of rehearing, Oct. 16, 2014). Plaintiff alleged that hostile work environment harassment relating to his perceived sexual orientation was sex-based harassment in violation of Title VII. Affirming the district court's grant of summary judgment to the employer, the appellate court ruled that the employer took prompt remedial action once on notice of the harassment. As urged by the EEOC in an amicus brief filed in connection with plaintiff's petition for rehearing, the court denied the petition but amended its original decision to delete language that had stated sexual orientation-related discrimination claims are not actionable under Title VII.

Latta v. Otter, 771 F.3d 456 (9th Cir. 2014). The 9th Circuit Court of Appeals held that statutes and constitutional amendments in Idaho and Nevada prohibiting same-sex marriages and refusing to recognize same-sex marriages validly performed in other states violated the Equal Protection Clause. The opinion of the court held that the laws were invalid as they discriminated on the basis of sexual orientation without sufficient justification. It also noted that "the constitutional restraints the Supreme Court has long imposed on sex-role stereotyping . .

. may provide another potentially persuasive answer to defendant's theory." *Id.* at 474. A concurrence by Judge Berzon focused exclusively on the sex discrimination argument. Her opinion stated that she would have found that the Idaho and Nevada laws unlawfully discriminated on the basis of sex as, among other reasons, "the social exclusion and state discrimination against lesbian, gay, bisexual, and transgender people reflects, in large part, disapproval of their nonconformity with gender-based expectations." *Id.* at 495.

*Boutillier v. Hartford Public Schs.*, No. 3:13-cv-01303, 2016 WL 6818348 (D. Conn. Nov. 17, 2016). Plaintiff, an elementary school teacher, alleged that discrimination against her based on her sexual orientation violated Title VII's sex discrimination prohibition. The court denied the employer's motion for summary judgment, citing the pendency of the issue before the circuit's appellate court and mixed circuit precedent, as well as arguments it found persuasive in support of plaintiff's claim. The court reasoned that Title VII's plain language as well as precedent supported plaintiff's claim, concluding that "straightforward statutory interpretation and logic dictate that sexual orientation cannot be extricated from sex; the two are necessarily intertwined in a manner that, when viewed under the Title VII paradigm set forth by the Supreme Court, place sexual orientation discrimination within the penumbra of sex discrimination." See also *Boutillier v. Hartford Public Schools*, 2014 WL 4794527 (D. Conn. Sept. 25, 2014) (denying employer's motion to dismiss).

*EEOC v. Scott Medical Health Center, P.C.*, \_\_\_ F. Supp. 3d \_\_\_, 2016 WL 6569233 (W.D. Pa. Nov. 4, 2016). The Commission alleged that harassment and constructive discharge based on the sexual orientation of a teleworker was actionable as sex discrimination under Title VII. Denying the employer's motion to dismiss, the court held that "Title VII's 'because of sex' provision prohibits discrimination on the basis of sexual orientation." The court explained: "There is no more obvious form of sex stereotyping than making a determination that a person should conform to heterosexuality. As the EEOC states, "[d]iscriminating against a person because of the sex of that person's romantic partner necessarily involves stereotypes about 'proper' roles in sexual relationship—that men are and should only be sexually attracted to women, not men." The court stated that in its view, a line between sex discrimination and sexual orientation discrimination is "a distinction without a difference. Forcing an employee to fit into a gendered expectation—whether that expectation involves physical traits, clothing, mannerisms or sexual attraction—constitutes sex stereotyping and, under *Price Waterhouse*, violates Title VII." The court concluded that such discrimination, "based upon nothing more than the aggressor's view of what it means to be a man or a woman, is exactly the evil Title VII was designed to eradicate."

*Winstead v. Lafayette Cty. Bd. of Cty. Comm'rs*, \_\_\_ F. Supp. 3d \_\_\_, 2016 WL 3440601 (N.D. Fla. June 20, 2016). Employee of county emergency medical services department brought Title VII sex discrimination claim alleging discrimination based on sexual orientation or perceived sexual orientation. Denying the employer's motion to dismiss, the court explained that it found persuasive the sex stereotyping rationale articulated in the EEOC's decision in *Baldwin v. Dep't of Transportation*, EEOC Appeal No. 0120133080 (July 15, 2015), and observed: "To hold that Title VII's prohibition on discrimination 'because of sex' includes a prohibition on discrimination based on an employee's homosexuality or bisexuality or heterosexuality does not require judicial activism or tortured statutory construction. It requires close attention to the text of Title VII, common sense, and an understanding that "[i]n forbidding employers to discriminate against individuals because of their sex, Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes." (quoting *Manhart*, 435 U.S. at 707 n.13).

*Christiansen v. Omnicom, Group, Inc.*, 167 F. Supp. 3d 598 (S.D.N.Y. 2016), appeal pending. Holding that it was bound to apply circuit precedent disallowing Title VII sex discrimination

claims based on sexual orientation, the court nevertheless included in its decision an extensive critique of that precedent and others, observing: "In light of the EEOC's recent [\[Baldwin\]](#) decision on Title VII's scope, and the demonstrated impracticality of considering sexual orientation discrimination as categorically different from sexual stereotyping, one might reasonably ask - and, lest there be any doubt, this Court is asking - whether that line should be erased."

[Videckis v. Pepperdine University](#), 2015 WL 8916764 (C.D.Cal. Dec. 15, 2015). Pepperdine University filed a renewed motion to dismiss plaintiff's Title IX claim, stating that the plaintiff alleged sexual orientation discrimination and not sex discrimination. The district court denied the motion, explicitly holding that "sexual orientation discrimination is a form of sex or gender discrimination." The court cited with approval the Commission's decision in [Baldwin v. Dep't of Transportation](#), EEOC Appeal No. 0120133080 (July 15, 2015), explaining that sexual orientation discrimination is sex discrimination "because it involved treatment that would not have occurred but for the individual's sex; because it was based on the sex of the person(s) the individual associates with; and/or because it was premised on the fundamental sex stereotype, norm, or expectation that individuals should be attracted only to those of the opposite sex."

[Isaacs v. Felder](#), 2015 WL 6560655 (M.D. Ala. Oct.29, 2015). Granting the employer's motion for summary judgment on plaintiff's Title VII claim due to insufficient evidence of discriminatory intent on the facts of the case, the court nevertheless explicitly rejected arguments that sexual orientation discrimination cannot be challenged under Title VII: "This court agrees instead with the view of the Equal Employment Opportunity Commission that claims of sexual orientation-based discrimination are cognizable under Title VII. In [\[Baldwin\]](#), the Commission explains persuasively why 'an allegation of discrimination based on sexual orientation is necessarily an allegation of sex discrimination under Title VII' ... Particularly compelling is its reliance on Eleventh Circuit precedent [prohibiting discrimination based on a protected characteristic because of a personal association]. Cf. [Parr v. Woodmen of the World Life Ins. Co.](#), 791 F.2d 888, 892 (11th Cir. 1986) ('Where a plaintiff claims discrimination based upon an interracial marriage or association, he alleges, by definition, that he has been discriminated against because of his race [in violation of Title VII].')' ....To the extent that sexual orientation discrimination occurs not because of the targeted individual's romantic or sexual attraction to or involvement with people of the same sex, but rather based on her or his perceived deviations from 'heterosexually defined gender norms,' this, too, is sex discrimination, of the gender-stereotyping variety .... See also [Latta v. Otter](#), 771 F.3d 456, 486 (9th Cir. 2014) (Berzon, J., concurring) ('The notion underlying the Supreme Court's anti-stereotyping doctrine in both Fourteenth Amendment and Title VII cases is simple, but compelling: '[n]obody should be forced into a predetermined role on account of sex,' or punished for failing to conform to prescriptive expectations of what behavior is appropriate for one's gender. See Ruth Bader Ginsburg, 'Gender and the Constitution,' 44 U. Cin. L.Rev. 1, 1 (1975)."

[Boutillier v. Hartford Public Schools](#), 2014 WL 4794527 (D. Conn. Sept. 25, 2014). The court denied the employer's motion to dismiss a Title VII sex discrimination claim alleging adverse employment actions occurring after management learned of her sexual orientation. The allegation that plaintiff was "subjected to sexual stereotyping during her employment on the basis of her sexual orientation" was held actionable as sex discrimination under Title VII because it sets forth "a plausible claim that she was discriminated against based on her non-conforming gender behavior."

[Hall v. BNSF Railway Co.](#), 2014 WL 4719007 (W.D. Wash. Sept. 22, 2014). Denying an employer's motion to dismiss a Title VII sex discrimination claim challenging the employer's

policy of providing health insurance coverage for employees' legally married opposite-sex spouses but not same-sex spouses, the court found that the allegations were sufficient to allege discrimination based on the sex of the employee.

[Terveer v. Billington](#), 2014 WL 1280301 (D.D.C. Mar. 31, 2014). Denying the employer's motion to dismiss the plaintiff's Title VII sex discrimination claims for denial of promotion and harassment because of non-conformance with sex stereotypes, the court found sufficient the plaintiff's allegations that he is "a homosexual male whose sexual orientation is not consistent with the Defendant's perception of acceptable gender roles," that his "status as a homosexual male did not conform to the Defendant's gender stereotypes associated with men [at his workplace]," and "his orientation as homosexual had removed him from [his supervisor's] preconceived definition of male."

[Centola v. Potter](#), 183 F. Supp. 2d 403 (D. Mass. 2002). In dicta, the court explained: "Sexual orientation harassment is often, if not always, motivated by a desire to enforce heterosexually defined gender norms. In fact, stereotypes about homosexuality are directly related to our stereotype about the proper roles of men and women."

[Koren v. Ohio Bell Telephone Co.](#), 2012 WL 3484825 (N.D. Ohio Aug. 14, 2012). Denying defendant's motion for summary judgment where plaintiff alleged his supervisor discriminated against him based on sex stereotypes because he is married to a man and took his husband's last name, the court held: "That is a claim of discrimination because of sex." (emphasis in original).

[Heller v. Columbia Edgewater Country Club](#), 195 F. Supp. 2d 1212, 1224 (D. Or. 2002). In a Title VII sex harassment case brought by a lesbian employee who was subjected to negative comments about her sex life, the court stated that the belief that men or women should only be attracted to or date persons of the opposite sex constitutes a gender stereotype. "If an employer subjected a heterosexual employee to the sort of abuse allegedly endured by Heller-including numerous unwanted offensive comments regarding her sex life-the evidence would be sufficient to state a claim for violation of Title VII. The result should not differ simply because the victim of the harassment is homosexual." In this case, the court held, a jury could find that [the manager] repeatedly harassed (and ultimately discharged) Heller because Heller did not conform to Cagle's stereotype of how a woman ought to behave. Heller is attracted to and dates other women, whereas Cagle believes that a woman should be attracted to and date only men."

[Strong v. Grambling State University](#), 2015 WL 1401335 (W.D. La. Mar. 25, 2015). The court analyzed on the merits plaintiff's claim that he was subject to sex discrimination in violation of Title VII based on his "gender status as heterosexual" because "women and homosexuals earn higher salaries than he does and receive pay increases where he does not." Granting the employer's motion for summary judgment, the court found there was insufficient evidence to support an inference of discriminatory intent.

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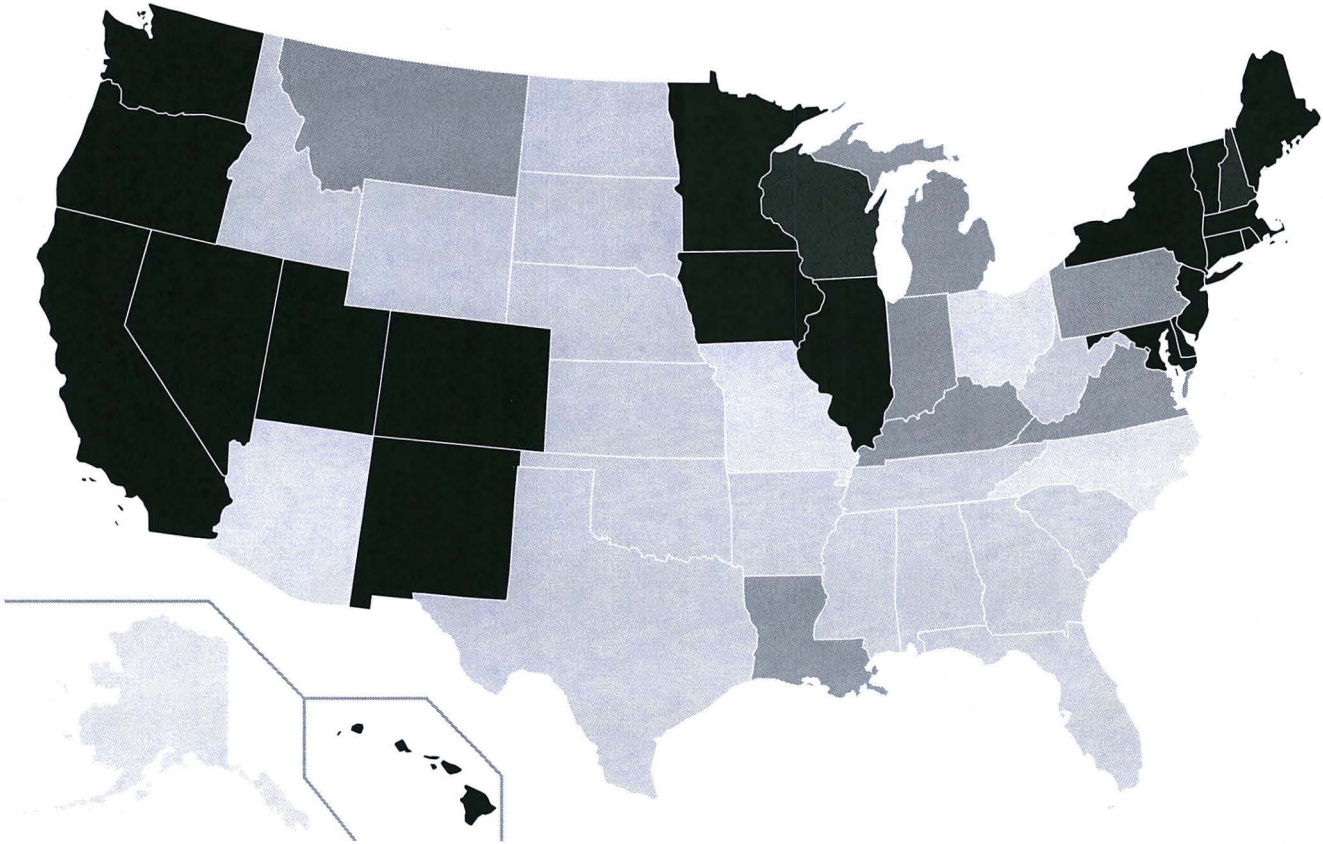


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HUMAN  
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# STATEWIDE EMPLOYMENT LAWS & POLICIES



Updated August 25, 2016

The Federal Equal Employment Opportunity Commission is currently accepting complaints of sexual orientation and gender identity discrimination in employment based on Title VII's prohibition against sex discrimination.

-  **States that prohibit discrimination based on sexual orientation and gender identity** (20 states & D.C.): California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington
-  **States that prohibit discrimination based on sexual orientation only** (2 states): New Hampshire, Wisconsin
-  **States that prohibit discrimination against public employees based on sexual orientation and gender identity** (7 states): Indiana, Kentucky, Louisiana, Michigan, Montana, Pennsylvania, Virginia
-  **States that prohibit discrimination against public employees based on sexual orientation only** (5 states): Alaska, Arizona, Missouri, North Carolina, Ohio

\*State courts, commissions, agencies, or attorney general have interpreted the existing law to include some protection against discrimination against transgender individuals in Florida and New York.

\*North Carolina's executive order enumerates sexual orientation and gender identity. However, this order has a bathroom carve out for transgender employees making the executive order not fully-inclusive.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
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## MEMORANDUM

March 28, 2017

**SUBJECT:** State Commission for Human Rights: Definition of term "sex"  
(Work Order No. 30-LS0779)

**TO:** Senator Berta Gardner  
Attn: Megan Holland

**FROM:** Linda M. Bruce   
Legislative Counsel

You requested an opinion on whether the term "sex" under AS 18.80 includes sexual orientation or gender identity. The short answer is that this issue is currently unresolved.<sup>1</sup>

The human rights laws under AS 18.80.200 - 18.80.255 prohibit discrimination based on "sex" in certain places or for certain activities, but do not explicitly include sexual orientation and gender identity. There is no existing definition, in Alaska Statutes, for the term "sex." I was not able to find any Alaska Supreme Court decisions resolving claims of discrimination under AS 18.80.200 - 18.80.255 based specifically on sexual orientation or gender identity. However, in *Rodriguez v. Alaska State Commission for Human Rights*, the Supreme Court noted, in resolving a claim of racial discrimination, that AS 18.80.220(a) "does not include discrimination based on a complainant's sexual orientation."<sup>2</sup>

The State Human Rights Commission (commission) administers AS 18.80.200 - 18.80.255. According to its website, the commission frequently processes complaints alleging sex discrimination prohibited by AS 18.80.200 - 18.80.255. On November 2, 2016, the commission passed a resolution that would interpret sex discrimination to include gender identity and sexual orientation, which is the interpretation used by the U.S. Equal Employment Opportunity Commission under Title VII of the 1964 Civil

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<sup>1</sup> Note that HB 139 and HB 19, introduced in the 28th Legislature and the 29th Legislature respectively, sought to resolve this issue by explicitly adding discrimination based on sexual orientation, gender identity, and expression to AS 18.80.200 - 18.80.255.

<sup>2</sup> 354 P.3d 380, 386 (Alaska 2015) (note that the court did not specifically analyze whether the term "sex" implicitly includes sexual orientation and gender identity).

Senator Berta Gardner

March 28, 2017

Page 2

Rights Act.<sup>3</sup> The resolution also calls on the Alaska State Legislature to "prohibit discrimination on the basis of sexual orientation or gender identity and expression."<sup>4</sup> I do not know if the commission has actually received or investigated complaints of discrimination based on sexual orientation or gender identity since the resolution passed.

It is unclear whether an Alaskan court would uphold the commission's interpretation of "sex" to include gender identity and sexual orientation. To resolve any doubt about whether the protections of AS 18.80 apply to a person's sexual orientation or gender identity, these classes should be explicitly included under AS 18.80.200 - 18.80.255.

If I may be of further assistance, please advise.

LBB:mlp  
17-158.mlp

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<sup>3</sup> I have been unable to locate a copy of the resolution passed by the commission. See Anne Hillman, *Alaska Human Rights Commission proposes regulation changes to protect LGBTQ community*, ALASKA PUBLIC MEDIA (Nov. 7, 2016), <http://www.alaskapublic.org/2016/11/07/alaska-human-rights-commission-proposes-regulation-changes-to-protect-lgbtq-community/>

<sup>4</sup> *Id.*

May 3, 2017

Rep. Andy Josephson  
State Capitol, Room 102  
Juneau, AK 99801

Re: HB 184 – An act prohibiting discrimination based on sexual orientation or gender identity or expression

Dear Rep. Josephson,

AARP Alaska offers our appreciation to you, Rep. Josephson, for your sponsorship, and to the members of the House State Affairs Committee for consideration of HB 184. AARP's policy is that it is the fundamental right of all people to be free from discrimination, including discrimination based on a person's sexual orientation or gender identity/expression.

Discrimination toward LGBT individuals is historically well documented, and ranges from mild harassment to violence and hate crimes. But, I wish to provide yet another aspect of the importance of non-discrimination protections for LGBT individuals. AARP, nationally, has undertaken a partnership with SAGE USA (Services and Advocacy for GLBT Elders) to help shine a light on the little understood situation LGBT individuals face as they grow old.

In short, the very unfortunate choice older LGBT individuals must face is whether they must go "back in the closet." As people age, we typically experience a series of losses which create varying degrees of dependency on others, and a consequent sense of vulnerability. The need to feel safe (including the need for respect and dignity) increases when having to depend on persons or systems other than one's self. While research on the experience of older LGBT individuals is only now beginning to describe their situation, results show some patterns that underscore the need for increased protection. We know, for instance, that LGBT older adults are:

- Five times less likely to access senior services
- Experience higher poverty rates than senior heterosexual counterparts
- Significantly more likely to delay or not seek needed medical care
- More likely to have problems with substance abuse
- At higher risk for cancer and other serious health conditions (including depression)
- Half as likely as heterosexual elders to have family members to call for help, and are three times less likely to have children.
- Hesitant to disclose sexual orientation to their primary care provider

Many of these disparities can be attributed to the effects of historical prejudice, including disruption to families (who are so necessary to our long term care system), and diminished opportunities to earn a living and save for retirement (often due to lifelong employment discrimination). Ongoing stigma often interferes with full participation in community and society, leaving a significant number of LGBT older adults reluctant to seek needed services and support from potentially hostile aging and health service

providers. Almost a third of gay and lesbian Baby Boomers identify discrimination as their greatest concern about aging....as if aging weren't concerning enough!

The experience of discrimination over a lifetime (remembering today's LGBT elders could have been a victim of violence, or seen their expressions of love labeled a psychiatric disorder, a criminal activity, anti-family, immoral, and a security risk) takes a toll and predisposes to being highly vigilant and cautious. When faced with the vulnerabilities of long term care, one might have to "sweep the house" of all evidence if a home health aide is due to pay a visit; or if living in an assisted living home or nursing home, one would have to make continuous decisions about whether this person or that one, whether staff or other residents, might be safe enough with whom to share the stories of one's life. For all persons coming to the end of life, the story of that life is among the most precious things a person has. It is hard to imagine the sense of loss and grief if that story had to be kept secret or denied. Furthermore, to live in a dependent care situation might have implications about who the LGBT elder is able to have in to visit, or whether those friends would themselves feel comfortable coming into that environment to visit...all of which has the potential to increase an unnecessary sense of loneliness and isolation.

The protections most people take for granted are urgently needed for LGBT older adults, especially with regard to public accommodations, which would include senior centers, health care facilities, assisted living homes, and skilled nursing facilities. No one should have to feel unsafe when they are old and vulnerable, and when so few choices may remain. Nor should anyone have to hide their own life out of fear of what others might say or do. HB 184 is a long-needed and crucial part of Alaska's proud history of self-determination and respect for individual human beings.

AARP Alaska offers our thanks to you and the House State Affairs Committee, and we furthermore offer our strong support for the passage of HB 184 out of committee. Please feel free to contact us if we can be helpful with any further information.

Respectfully,



Ken Helander  
Advocacy Director  
762-3314  
[khelander@aarp.org](mailto:khelander@aarp.org)

CC: Rep. Jonathan Kreiss-Tompkins, Chair House State Affairs Committee  
Rep. Gabriel LeDoux  
Rep. Chris Tuck  
Rep. Chris Birch  
Rep. DeLena Johnson  
Rep. Gary Knopp



May 1, 2017

Honorable Jonathan Kreiss-Tomkins, Chairperson  
House State Affairs Committee  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801

Re: Support for House Bill 184 – Prohibiting discrimination based on sexual orientation or gender identity or expression.

Dear Chairperson Kreiss-Tomkins and Committee Members,

Alaskans Together for Equality (ATE) fully supports making all Alaskans equal and protected from discrimination through passing House Bill (HB) 184: “An act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression.”

ATE represents hundreds of members across the state of Alaska. We are a statewide, nonpartisan, civil rights organization whose mission is to advance civil equality for all Alaskans through grassroots organizing and advocacy, with a primary focus on lesbian, gay, bisexual, and transgender (LGBT) Alaskans. We advocate for all Alaskans because the stronger the foundation of equal civil rights across institutions and practices makes for a better Alaska. All Alaskans will be enabled to take advantage of opportunities to create healthy lives and produce income that allows for a stronger state.

**ATE believes that HB184 is imperative to securing the rights and opportunities of all Alaskans and provides the tools to pursue these opportunities.** HB184 positively impacts all Alaskans by strengthening the foundation of equality and protecting civil rights.

As Alaska continues to weather economic challenges, it is imperative that the State do all that it can do to attract and retain a skilled and diverse labor force. When the United States Congress Joint Economic Committee examined the economic consequences of discrimination

based on Sexual Orientation and Gender Identity in November of 2013<sup>1</sup>, it found that discrimination results in detrimental economic impacts including: lower profits; higher turnover costing business more to train and retain employees; reduced wages and underemployment; reduced economic growth through lost productivity, inefficiencies in the economy and an overall misallocation of crucial human capital.

We urge you to support the justice, fairness and equality for all Alaskans by supporting HB184. With this bill's passage, the Alaska legislature ensures the right for individual Alaskans to work, innovate, and contribute to our state. HB184 is integral to meeting Alaska's economic challenges and will send a strong message to Alaska's LGBT community and those talented LGBT individuals and their families who are considering making Alaska their home, that our state is a welcoming state to all.

Thank you for hearing this bill and after years of waiting for a vote, we hope you pass this bill through this committee but also encourage your fellow legislators to move this bill to the House floor and pass it. Not only is it the right thing to do but it also aligns with our Alaskan values of fairness and equality for all.

On behalf of the ATE Board and our members,

A handwritten signature in blue ink, appearing to read 'E. Rojas', with a long horizontal flourish extending to the right.

Elias Rojas  
Board President  
Alaskan Together for Equality

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<sup>1</sup> [http://www.jec.senate.gov/public/\\_cache/files/42dc59a0-6071-46d0-8ff2-9bd7a6b0077f/enda---final-11.5.13.pdf](http://www.jec.senate.gov/public/_cache/files/42dc59a0-6071-46d0-8ff2-9bd7a6b0077f/enda---final-11.5.13.pdf)



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## Municipality of Anchorage

April 6, 2017

The Honorable Jonathan Kreiss-Tomkins  
Alaska State House  
State Capitol, Room 411  
Juneau, AK 99801

Dear Representative Kreiss-Tomkins:

I am thankful that Representative Josephson introduced HB184 which prohibits discrimination based on sexual orientation or gender identity or expression because I have always advocated for and believed that everyone deserves equal rights. After many, many years attempting to provide this right to our LGBTQ citizens within our community, I was honored to be one of nine Assembly Members who approved AO 2015-96(S-1) on September 29, 2015.

There are some who truly believe that this is a lifestyle choice. This mentality could not be further from the truth. You see, when I was 14 years old, my sister's son was three years old. Even at that early age, we both knew he was gay. Unfortunately, at the age of 21 years, my sister died from birth control pills which caused a brain hemorrhage and heart failure. She was my idol and died in my arms on the way to the hospital. Before she died, I promised her that I would emotionally take care of Darren as he grew older in a world of hate because of his identity. Darren is now an adult, has been in a relationship with Keith for 19 years, and they married just last year.

I, personally, know what it is like to experience discrimination. I have been a victim more than once because of the color of my skin. I will always be grateful to Dr. Martin Luther King, Jr. for making a difference in my life and the lives of many. This behavior is simply unacceptable.

I am hopeful that you and your colleagues will support this proposed legislation because it is not just the right thing to do, but the "only thing" to do. Please make this human right a reality.

Sincerely,

  
Elvi Gray-Jackson  
Chair



May 2, 2017

Honorable Jonathan Kreiss-Tomkins, Chair  
House State Affairs Committee

PFLAG of Fairbanks is in support of HB 184. Our chapter promotes the health and well-being of gay, lesbian, bisexual and transgendered persons, their families, and friends. Please add the six words and a comma: "sexual orientation, gender identity or expression" to the Alaskan Human Rights Law.

Alaska is blessed with a diverse populace yet attacks against LGBTQ individuals is well documented. A discrimination Survey released in November of 2011 by Green and the organization Identity provides evidence of unequal treatment of LGBTQ individuals in employment, housing, education and public services. Violence and discrimination against these citizens exists in all parts of Alaska but the data thereof needs to be organized and presented. This task is perfectly suited to the Alaska State Commission for Human Rights.

We have a human rights law in this state to secure peace, order, health, safety, and the general welfare of the state and its inhabitants. End the bullying of the non-binary. Allow for the vast expression of gender that exist in the human realm.

When a culture-scape does not include a place for Queer citizens they are murdered, attacked, humiliated and forced to exist in the face of stagnation, isolation and systemic erasure. We look forward to a time when labels are removed from humans and all can flourish regardless of their status at birth.

Add the six words and a comma: "sexual orientation, gender identity or expression" to the mission of the Alaska Human rights Commission. Embrace, protect and include the documented and undocumented Alaskan citizens that express themselves as LGBTQ. Pass HB 184 into law.

Thank-you,  
PFLAG Fairbanks Chapter



HUMAN  
RIGHTS  
CAMPAIGN®

April 25, 2017

Honorable Representative Jonathan Kreiss-Tomkins, Chair  
House State Affairs Committee  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801

Dear Chairperson Kreiss-Tomkins and Members of the Committee,

My name is Sarah Warbelow, and I am the Legal Director for the Human Rights Campaign (HRC), America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of our nearly 2,000,000 members and supporters nationwide, I am writing you today in support of House Bill (HB) 184, which would extend nondiscrimination protections to LGBTQ Alaskans in employment, housing, and public accommodations.

America has a proud history of valuing liberty, freedom, and hard work. Anti-discrimination laws put those values into practice. By expanding the state's civil rights laws to include LGBTQ people, Alaska will send a strong message that all of its residents matter. It is time to ensure that discrimination does not trump merit or basic fairness by extending protections to include sexual orientation and gender identity.

Discrimination against LGBTQ people continues to be a very real problem. Far too often, LGBTQ Americans have lost their livelihoods simply because of an employer's fear, lack of understanding, or intolerance. Some are highly skilled professionals who, though seemingly irreplaceable in their positions, suddenly become expendable when they wish to live openly in their communities or are outed by colleagues. Others are people forced into whatever jobs they can find, some scraping together money for the tremendous medical costs of gender transition, which are rarely covered by health insurance. They are people in every walk of life—doctors and lawyers, plumbers and bus drivers. Many are parents and spouses, whose efforts to find secure, fulfilling employment are also a struggle to provide for their families. And for these Americans, the threat of discrimination does not end once they leave the workplace. It is well-documented that LGBTQ people are shown less desirable properties for purchase or rent, receive less favorable customer service, or encounter outright refusal of service. The time has long since passed when we as a nation ought to tolerate arbitrary discrimination against any group of people, in any aspect of life.

I cannot overstate the real-life implications this bill would have for Alaska. It would extend vital protections in the most fundamental aspects of life to all Alaskans. Now that marriage equality is a reality nationwide, this bill would eliminate the untenable possibility of an individual marrying the person they love, only to be fired from work, evicted, or denied access to public places for doing so.

Moreover, this bill would send an unequivocal message to businesses that Alaska is a place where they can find the best and brightest; where their employees can live, grow, and thrive without fear of discrimination.

Finally, passing the HB 184 will place the state in good company. Beginning with an ordinance passed in Minneapolis in 1975, 19 states, the District of Columbia, and more than 100 cities and counties have enacted fully-inclusive, comprehensive laws prohibiting discrimination based on sexual orientation and gender identity. Additionally, more than 600 private businesses across the United States, including 66% of Fortune 500 companies, have voluntarily adopted policies that prohibit discrimination based on sexual orientation and gender identity. It is clear that employers and governments nationwide agree that they are at their best—their most competitive and most productive—when they do the right thing and affirm that they're open to everyone.

It has never been more important for Alaska to act and ensure that discrimination has no place in this great state. Please vote in favor of HB 184.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Warbelow".

Sarah Warbelow



# The League of Women Voters

A Voice For Citizens, A Force For Change

April 28, 2017

Dear Representative Andy Josephson, Sponsor;  
Representative Kreiss-Tomkins, Chair of the House State Affairs Committee; and  
Members of the State Affairs Committee:

The League of Women Voters of the United States believes in equality in education, housing, and employment for all persons regardless of their race, color, gender, religion, national origin, age, sexual orientation or disability. In addition, the League supports the equalization of legal rights, obligations, and benefits available to same-gender couples with those available to heterosexual couples, including the right to marry under civil law. The League believes that one of government's responsibilities is to protect the rights of all its citizens. Therefore, the League of Women Voters of Alaska strongly supports HB 184, a bill to protect the rights of persons regardless of sexual orientation, gender identity, or expression.

The 1992 LWVUS Convention added language to their Equality of Opportunity position, making it clear that this position referred to "all persons, regardless of their race, color, gender, religion, national origin, age, sexual orientation or disability." The League position focuses particularly on equal opportunity for education, housing, and employment, three important requirements for inclusion and survival in society. In late March, public testimony in the Senate on the companion bill to HB 184, SB 72, gave evidence that the problem of discrimination is very real for citizens who identify as members of the LGBTQ community. The loss of jobs and/or housing and the threat of violence were just a few of the potential problems mentioned in the testimony.

Although the League was formed initially to fight for women's suffrage, today the League's work has widened to include all citizens and the guarantee of equal opportunity and civil rights for all. A society is weakened when it excludes some of its citizens from full participation in the rights and opportunities afforded to only certain citizens. We urge the members of the House State Affairs Committee to consider the rights of all your constituents and pass HB 184 out of committee. Thank you.

Sincerely,

Judith Andree, President LWVAK

Hetty Barthel, Director

Phyllis Tugman-Alexander, Vice-President

Karen Griffin, Director

Pat Redmond, Past-President

Mary Lee Guthrie, Director

Gail Knobf, Secretary

Mariann Mills, Director

Cheryl Jebe, Treasurer

Diane Mathisen, Director



Planned Parenthood Votes Northwest and Hawaii

Representative Josephson  
Alaska State Capitol  
Juneau, AK 99801

Re: House Bill 184

March 22<sup>th</sup>, 2017

Dear Representative Josephson,

On behalf of Planned Parenthood Votes Northwest and Hawaii, I write today to thank you for sponsoring House Bill 184, which would add the words “sexual orientation, gender identity or expression” to Alaska’s non-discrimination statutes. Our state already prohibits discrimination based on race, religion, color, national origin, age, sex, disability, and marital status in the areas of employment, housing, public accommodation, and financing practices. However, these important protections do not extend to lesbian, gay, bisexual or transgender (LGBT) people.

Everyday Alaskans across the state live in fear of being fired or denied housing, public service, or other opportunities because they are gay or transgender. It doesn’t have to be this way. Each of us should be free to build loving adult relationships and to create families without discrimination based on our personal, private lives.

As a health care provider and employer, Planned Parenthood knows that this legislation is good for public health and good for business. Because of discrimination, and fear of discrimination, many LGBT employees hide their identities, are paid less, and have fewer employment opportunities than their non-LGBT counterparts. This prejudice puts LGBT people at increased risk for poor physical and mental health. Businesses that support anti-discrimination measures for LGBT people recognize that having a corporate culture that embraces diversity improves worker productivity and helps recruit the best talent. Sexual orientation and gender identity have no relationship to workplace performance, and hardworking Alaskans shouldn’t be fired because of who they love or who they are.

Access to stable and secure housing is also essential for successful and healthy families, but LGBT people often experience housing discrimination and are denied the security of one of life’s most basic necessities. Like everyone else, they just want to contribute to the economic health of our state, earn a living, and be able to provide for their families.

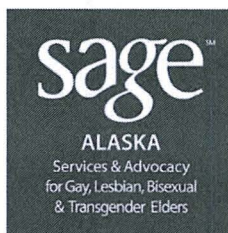
Equality is everyone’s concern and it’s time that our state catches up. Thank you for your leadership on this issue. We look forward to supporting your efforts.

Sincerely,

A handwritten signature in black ink that reads 'Alyson Currey'. The signature is fluid and cursive, with a large loop at the end of the last name.

Alyson Currey  
Regional Field Organizer and Legislative Liaison

Planned Parenthood Votes Northwest and Hawaii  
3231 Glacier Hwy, Juneau, AK 99801  
907.957.8708 | Alyson.Currey@ppvnh.org



May 1, 2017

Representative Andy Josephson  
State Capitol Room 102  
Juneau, AK. 99801

Re: HB 184

Dear Representative Josephson,

SAGE Alaska would like to thank you for sponsoring HB 184 and to thank the members of the Committee for considering this bill. As our name states, SAGE (Services and Advocacy for Gay Elders) Alaska is committed to addressing the needs of older LGBT people and to advocating for policy changes that affect those needs. We want to ensure that the older LGBT community can age with a sense of security, dignity, confidence and well-being.

While the struggle for equality has advanced over the last few decades, it is far from over. For older LGBT individuals, there are still memories of times of hiding, fear for safety, and the heartbreak of rejection by family, friends, workplaces, and even their church. For many, the scars of struggle will remain and affect many aspects of their later life experience. Some will remain "in the closet" forever, regardless of laws protecting specific status, as laws do not dictate personal beliefs nor attitudes, as only time and relationships can work open hearts and minds.

National studies estimate the population of LGBT seniors will double by the year 2030 and unfortunately, many in that population deal with poverty and reduced economic security as well as significant health disparities related to physical and mental health issues. Our lack of nondiscrimination protections for all LGBT peoples, raises risk factors for social isolation in disproportionate ways. Older LGBT people are twice as likely to live alone, and 3-4 times less likely to have children, and many are estranged from their biological families. Many mainstream providers do not account for the unique realities and needs of older adults, leaving them at risk for isolation, neglect and further discrimination.

Aging is stressful enough without the additional stress that discrimination can cause. No one should have to live their life in fear of being denied services or housing because of who they are. It is time for all Alaskans to be treated fairly and we strongly support HB 184 and hope to see it become reality in the near future.

Respectfully,  
Julie Schmidt  
Program Director  
529-6725

P.O. Box 200070 Anchorage, AK 99520 EIN 92-0091087

# ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

## MEMORANDUM

*HB 184 – Non-Discrimination Based on Sexual Orientation, Gender Identity or Expression:*

*Ministerial Exemption and other Religious Exemptions*

May 9<sup>th</sup>, 2017

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During our first hearing for HB 184 in State Affairs last week, a significant amount of confusion arose regarding the religious exemption. I would like to clarify this part of the legislation so that there is no question among members.

*I would like to make clear, that the religious exemption in existing law which applies to this legislation is much broader than previously noted in the first hearing, in which we focused on the ministerial exemption in section 5.*

Attached is a summary of the **Hosanna-Tabor** case, which explains the interpretation of the ministerial exemption in detail. As explained in committee, the ministerial exemption is a recognized interpretation of the First Amendment by the U.S. Federal Courts. It is because of this that the inclusion, (or lack thereof), of this language does not affect the implementation of this legislation, as the federal interpretation would apply regardless. That being said, the question arose as to under which circumstances this particular exemption applies.

During the hearing it was explained that this exemption applies to the “employment relationship between a religious institution and its minister.” However, as stated in the attached description, what qualifies an employee as a “minister” is not clearly defined. In the specific case of Hosanna-Tabor, this exemption was applied to a teacher, who taught not only religious courses but secular courses as well. It was found that “her job duties reflected a role in conveying the Church’s message and carrying out its mission: As a source of religious instruction, Perich [the teacher] played an important part in transmitting the Lutheran faith.” In summary, the explanation provided in committee was sufficient, in that this exemption applies to positions which “shape its own faith and mission through its appointments.” The example of a teacher vs. a janitor hold true, as this exemption would not apply to positions which do not have purview of the internal governance of a church, or the personification of its beliefs.

# ALASKA STATE LEGISLATURE



## REPRESENTATIVE ANDY JOSEPHSON

The executive director of the Alaska State Human Rights Commission, Marti Buscaglia, mentioned an additional religious exemption in Alaska's Administrative Code, under 6 AAC 30.985. This code states that, "Any organization operated for charitable or educational purposes and supervised or controlled by or in connection with a religious organization is not prohibited from limiting admission to or giving preference to persons of the same religion or denomination or otherwise making a hiring decision that will promote the religious principles for which it is established or maintained."

However, what is even more pertinent than this code is the exemption asserted in surrounding state statute under title 18.

**Title 18.80.300 (5)**, defines the term "employer" as, "a person, including the state and a political subdivision of the state, who has one or more employees in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association, or corporation is not organized for private profit." Given this definition, the entire section of HB 184 which addresses employers does not apply to not for profit religious associations or corporations. Given this state statute, the religious exemption for employers is much broader than that provided by the ministerial exemption.

Using the context of HB 184, which adds "sexual orientation, gender identity or expression" to the prohibitions on discriminatory practices, the ministerial exemption allows religious institutions to discriminate on this basis in specific positions which play an important role in shaping its faith and mission, however, the definition of employer under state statute exempts non-profit religious associations from this prohibition *in all positions*. Essentially, religious organizations are largely exempt from the employment section of this legislation.

Additionally, given the exemption in state statute HB 184 fully allows "the freedom of association", meaning that prohibitions on discrimination cannot apply to a religious associations clubs, social groups, charitable organizations and/or educational organizations.

I hope that this dispels any remaining confusion in regards to religious exemptions which would be applied to HB 184.

If you have any further questions please contact my staffer, Megan Holland at 465-4967

Ministerial exception, grounded in Religion Clauses of the First Amendment, operates as an affirmative defense to an otherwise cognizable claim, not a jurisdictional bar; issue presented by the exception is whether the allegations the plaintiff makes entitle him to relief, not whether the court has power to hear the case; abrogating *Hollins v. Methodist Healthcare, Inc.*, 474 F.3d 223 and *Tomic v. Catholic Diocese of Peoria*, 442 F.3d 1036. U.S.C.A. Const.Amend. 1.

13 Cases that cite this headnote

## West Codenotes

### Limited on Constitutional Grounds

42 U.S.C.A. § 12112; Mich. Comp. Laws Ann. § 37.1602.

**\*\*695 Syllabus\***

Petitioner **Hosanna–Tabor Evangelical Lutheran Church** and School is a member congregation of the **Lutheran Church–Missouri Synod**. The Synod classifies its school teachers into two categories: “called” and “lay.” “Called” teachers are regarded as having been called to their vocation by God. To be eligible to be considered “called,” a teacher must complete certain academic requirements, including a course of theological study. Once called, a teacher receives the formal title “Minister of Religion, Commissioned.” **\*\*696** “Lay” teachers, by contrast, are not required to be trained by the Synod or even to be **Lutheran**. Although lay and called teachers at **Hosanna–Tabor** generally performed the same duties, lay teachers were hired only when called teachers were unavailable.

After respondent Cheryl Perich completed the required training, **Hosanna–Tabor** asked her to become a called teacher. Perich accepted the call and was designated a commissioned minister. In addition to teaching secular subjects, Perich taught a religion class, led her students in daily prayer and devotional exercises, and took her students to a weekly school-wide chapel service. Perich led the chapel service herself about twice a year.

Perich developed narcolepsy and began the 2004–2005 school year on disability leave. In January 2005, she notified the school principal that she would be able to report to work in February. The principal responded that the school had already contracted with a lay teacher to fill Perich’s position for the remainder of the school year. The principal also expressed concern that Perich was not yet ready to return to the classroom. The congregation subsequently offered to pay a portion of Perich’s health insurance premiums in exchange for her resignation as a called teacher. Perich refused to resign. In February, Perich presented herself at the school and refused to leave until she received written documentation that she had reported to work. The principal later called Perich and told her that she would likely be fired. Perich responded that she had spoken with an attorney and intended to assert her legal rights. In a subsequent letter, the chairman of the school board advised Perich that the congregation would consider whether to rescind her call at its next meeting. As grounds for termination, the letter cited Perich’s “insubordination and disruptive behavior,” as well as the damage she had done to her “working relationship” with the school by “threatening to take legal action.” The congregation voted to rescind Perich’s call, and **Hosanna–Tabor** sent her a letter of termination.

Perich filed a charge with the Equal Employment Opportunity Commission, claiming that her employment had been terminated in violation of the Americans with Disabilities Act. The **EEOC** brought suit against **Hosanna–Tabor**, alleging that Perich had been fired in retaliation for threatening to file an ADA lawsuit. Perich intervened in the litigation. Invoking what is known as the “ministerial exception,” **Hosanna–Tabor** argued that the suit was barred by the First Amendment because the claims concerned the employment relationship between a religious institution and one of its ministers. The District Court agreed and granted summary judgment in **Hosanna–Tabor’s** favor. The Sixth Circuit vacated and remanded. It recognized the existence of a ministerial exception rooted in the First Amendment, but concluded that Perich did not qualify as a “minister” under the exception.

Held :

1. The Establishment and Free Exercise Clauses of the First Amendment bar suits brought on behalf of ministers against their **churches**, claiming termination in violation of employment discrimination laws. Pp. 702 – 707.

(a) The First Amendment provides, in part, that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Familiar with life under the established **Church** of England, the founding generation sought to foreclose the possibility of a national **church**. By forbidding the “establishment of religion” and guaranteeing the “free exercise thereof,” the Religion Clauses \*\*697 ensured that the new Federal Government—unlike the English Crown—would have no role in filling ecclesiastical offices. Pp. 702 – 704.

(b) This Court first considered the issue of government interference with a **church’s** ability to select its own ministers in the context of disputes over **church** property. This Court’s decisions in that area confirm that it is impermissible for the government to contradict a **church’s** determination of who can act as its ministers. See *Watson v. Jones*, 13 Wall. 679, 20 L.Ed. 666; *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 73 S.Ct. 143, 97 L.Ed. 120; *Serbian Eastern Orthodox Diocese for United States and Canada v. Milivojevic*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151. Pp. 704 – 705.

(c) Since the passage of Title VII of the Civil Rights Act of 1964 and other employment discrimination laws, the Courts of Appeals have uniformly recognized the existence of a “ministerial exception,” grounded in the First Amendment, that precludes application of such legislation to claims concerning the employment relationship between a religious institution and its ministers. The Court agrees that there is such a ministerial exception. Requiring a **church** to accept or retain an unwanted minister, or punishing a **church** for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the **church**, depriving the **church** of control over the selection of those who will personify its beliefs. By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group’s right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions.

The EEOC and *Perich* contend that religious organizations can defend against employment discrimination claims by invoking their First Amendment right to freedom of association. They thus see no need—and no basis—for a special rule for ministers grounded in the Religion Clauses themselves. Their position, however, is hard to square with the text of the First Amendment itself, which gives special solicitude to the rights of religious organizations. The Court cannot accept the remarkable view that the Religion Clauses have nothing to say about a religious organization’s freedom to select its own ministers.

The EEOC and *Perich* also contend that *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872, 110 S.Ct. 1595, 108 L.Ed.2d 876, precludes recognition of a ministerial exception. But *Smith* involved government regulation of only outward physical acts. The present case, in contrast, concerns government interference with an internal **church** decision that affects the faith and mission of the **church** itself. Pp. 705 – 707.

2. Because Perich was a minister within the meaning of the ministerial exception, the First Amendment requires dismissal of this employment discrimination suit against her religious employer. Pp. 707 – 710.

(a) The ministerial exception is not limited to the head of a religious congregation. The Court, however, does not adopt a rigid formula for deciding when an employee qualifies as a minister. Here, it is enough to conclude that the exception covers Perich, given all the circumstances of her employment. **Hosanna–Tabor** held her out as a minister, with a role distinct from that of most of its members. That **\*\*698** title represented a significant degree of religious training followed by a formal process of commissioning. Perich also held herself out as a minister by, for example, accepting the formal call to religious service. And her job duties reflected a role in conveying the **Church’s** message and carrying out its mission: As a source of religious instruction, Perich played an important part in transmitting the **Lutheran** faith.

In concluding that Perich was not a minister under the exception, the Sixth Circuit committed three errors. First, it failed to see any relevance in the fact that Perich was a commissioned minister. Although such a title, by itself, does not automatically ensure coverage, the fact that an employee has been ordained or commissioned as a minister is surely relevant, as is the fact that significant religious training and a recognized religious mission underlie the description of the employee’s position. Second, the Sixth Circuit gave too much weight to the fact that lay teachers at the school performed the same religious duties as Perich. Though relevant, it cannot be dispositive that others not formally recognized as ministers by the **church** perform the same functions—particularly when, as here, they did so only because commissioned ministers were unavailable. Third, the Sixth Circuit placed too much emphasis on Perich’s performance of secular duties. Although the amount of time an employee spends on particular activities is relevant in assessing that employee’s status, that factor cannot be considered in isolation, without regard to the other considerations discussed above. Pp. 707 – 710.

(b) Because Perich was a minister for purposes of the exception, this suit must be dismissed. An order reinstating Perich as a called teacher would have plainly violated the **Church’s** freedom under the Religion Clauses to select its own ministers. Though Perich no longer seeks reinstatement, she continues to seek frontpay, backpay, compensatory and punitive damages, and attorney’s fees. An award of such relief would operate as a penalty on the **Church** for terminating an unwanted minister, and would be no less prohibited by the First Amendment than an order overturning the termination. Such relief would depend on a determination that **Hosanna–Tabor** was wrong to have relieved Perich of her position, and it is precisely such a ruling that is barred by the ministerial exception.

**Additional Letters of Support, House State Affairs  
May 1 – 8**

**HB 184: DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.**  
*Rep. Andy Josephson*

- |                         |                          |
|-------------------------|--------------------------|
| 1. Victor Carlson       | 18. Felix Rivera         |
| 2. Cindy Lelake         | 19. Christopher Constant |
| 3. Laurie Walton        | 20. Tristan Walsh        |
| 4. Gayle Schuh          | 21. Deborah Tennyson     |
| 5. Jean Craciun         | 22. Debbie Corral        |
| 6. Chelsea Vukovich     | 23. Marsha Buck          |
| 7. Nora Gecan           | 24. Paige R. Hodson      |
| 8. Anna Nelson          | 25. Alexander Bergman    |
| 9. William Earnest      | 26. Susan Halvor         |
| 10. Jeff Walters        | 27. Anne Green           |
| 11. Bhree Rhoumagoux    | 28. Pam Cravez           |
| 12. Candace Bell        | 29. Eli Michael          |
| 13. Christopher Salerno | 30. Glenn Cravez         |
| 14. Fred Traber         | 31. Sherry Eckrich       |
| 15. Cheryl Lovegreen    | 32. Lin Davis            |
| 16. Pam Cravez          | 33. Mallory Story        |
| 17. Michelle Wozniak    |                          |

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Dear Chairman and Members:

I support a statewide protection of all persons in Alaska with regard to sexual orientation, gender identity, etc. in order that each person may achieve her or his full potential.

Victor D. Carlson,  
Anchorage

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Dear Members of the House State Affairs Committee:

Please extend the crucial protections of State of Alaska non-discrimination statutes to lesbian, gay, bisexual and transgendered Alaskans. All Alaskans deserve fair treatment in the areas of employment, housing, financing and public accommodation.

It's important to realize that HB184 does not seek to create new law. Rather, it attempts to broaden the scope of existing non-discriminatory language.

I would greatly appreciate your wholehearted support of HB184.

Very truly yours,

Cindy Lelake  
Anchorage

--

Dear House State Affairs Committee,

I am a white 58 year old women. I urge you to pass House Bill 184. Alaska has a long history of promoting civil rights. It is essential that protections against discrimination based on sexual orientation and gender identity be added to state non discrimination regulations. This is a very vulnerable population, especially with the changes that are being rolled back by the Federal level. It is important to me that my LGBTQ friends and neighbors are protected in the great State Alaska.

Thank you for you work and consideration.

Laurie Walton  
Fairbanks, AK 99701

--

HB 184 is so important to Alaskans as the first inclusive statewide non-discrimination law, granting protections we have long fought for in Alaska and across the region. Prohibiting discrimination on the basis of sexual orientation and gender identify in housing, employment, and places of public accomodation only makes sense in light of the push by some to compromise these protections.

When asked if I have ever been discriminated against I frequently forget how often I ignore what others take for granted. Should I have to ask when I enter a bakery to buy a cupcake if they sell to lesbians or is my money good enough as long as I keep my sexual orientation to myself and I don't want a wedding cake. If I wear my "Big Wild Lesbian" T shirt into a store can I be denied service? Can I ask that my taxes not pay for the sidewalk or the street lights, or the snow removal from outside of any business that discriminates?

Thank you for HB 184. Please vote to formalize protections for all citizens in Alaska. Discrimination must be eliminated.

Gayle Schuh  
18631 Gibens Cir.  
Eagle River, AK 99577

--

I have owned an Alaskan based Corporation for 30 years in Alaska. I have never denied my identity as a Lesbian and I married a woman and have 2 beautiful children with her. Her concerns for discrimination required we step out of Alaska. Where did we chose but a city with a Gay Mayor. While we have felt discrimination that was always insidious and never blatant. We did not want that life for our children.

Alaska has a strong individual rights philosophy in its constitution and so I trust it will see its way clear to do the right thing...eventually.

I am in Washington DC today and Roosevelt's words are important for your discussion. "We must scrupulously guard the civil rights and civil liberties of all its citizens. We must remember any oppression, any injustice, any hatred, is a wedge designed to attack our civilization".

Sincerely, Jean Craciun

Jean Craciun  
President/CEO Craciun Research

--

I am writing to voice my support for HB 184 which would add "sexual orientation, gender identity and gender expression" to our existing state's anti-discrimination law.

The LGBT+ community is one of our most vulnerable and discriminated against and these protections are much needed. All people are deserving of the same rights under the law, regardless of sexual orientation.

Sexual orientation and gender identity have no relationship to workplace performance. However, in a national survey 44% of LGBTQ respondents reported facing discrimination at work. An overwhelming 97% of transgender people report having been harassed on the job, and 26% have been fired because of their gender identity. Because of discrimination, and fear of discrimination, many LGBTQ employees hide their identities, are paid less and have fewer employment opportunities than their non-LGBT counterparts. This prejudice puts LGBTQ people at increased risk for poor physical and mental health.

I urge you to support this bill and show that Alaska is a state that values every citizen and protects the rights of every citizen. By passing this bill you can have a great impact for good for those whose only wish is to live their lives without harassment or discrimination.

Thank you,  
Chelsea Vukovich  
99516

--

To the House State Affairs Committee,

I am emailing to lend my support to HB 184.

As a gay woman living here in Alaska, I've had the good fortune not to experience discrimination at in employment or in housing situations. However, many members of my community have not been so lucky. Many queer friends and acquaintances of mine have had to hide their sexual or gender identity at work or risk losing their jobs. A dear friend of mine who is a gifted music teacher was made to scale back their interaction with young students when they decided to transition from female to male. The impacts of a lack of protection from discrimination are real and have negative influence over many Alaskan citizens. Beyond missing out on job opportunities and housing, the mental and emotional cost of hiding one's identity is steep.

Opponents to the bill will tell you that this discrimination and these negative impacts don't exist - that they just don't see it. But I and my friends and broader LGBTQ2 community see and experience them constantly. Saying a problem doesn't exist doesn't solve it, so let's solve it instead - starting with this piece of legislation.

These protections would only make our state stronger. I am lucky enough to work for a company that embraces diversity of all kinds, and working in an environment where I know I am supported makes me a better, more dedicated employee. The same can be true for every queer Alaskan.

Sincerely,

Nora Gecan  
Anchorage, Alaska

--

Dear Alaskan Representatives,

“Bill (HB) 184 would prohibit discrimination on the basis of sexual orientation and gender identity in housing, employment, and places of public accommodation.”

I hope that you all come down on the right side of history on this issue. It used to be okay to discriminate against women and African Americans. No one is saying that gender or sexual

orientation confers any “preferential treatment.” It is time to stop treating some people as less than human.

Thanks for your consideration.

Anna Nelson  
Executive Director  
Interior AIDS Association

--

I'm writing to express my support for HB 184.

William Earnest  
Fairbanks, AK 99701

--

To Members of the House State Affairs Committee,

I am writing to support HB 184, which would add “sexual orientation” and “gender identity” to Alaska’s non-discrimination statutes. I am a recently-retired high school counselor in Fairbanks. Over the years, I saw many gay/lesbian/transgender students struggle to “come out” to their families and friends. (Fortunately, in most cases, the students' families were supportive after the student gained the courage to be honest with their loved ones. But I know of at least one gay student who committed suicide shortly after graduating from high school.) It saddens me that, in this day and age, our society still makes it uncomfortable and painful for many people to “come out” and be honest about their identities. Passing HB 184 would show that the state of Alaska does not tolerate discrimination in this area.

Alaska should be welcoming and respectful of ALL its citizens, and this bill helps move this message forward.

Please support HB 184.

Thank you,  
Jeff Walters  
Fairbanks, AK

--

Dear Representatives:

I am writing in strong and passionate support of HB 184. Thank you for working to make LGBTQIA people protected under the law. No one should be discriminated against, and LGBTQIA deserve the same protections as other classes of citizens who have historically suffered discrimination just for being.

Who you love, how you look, how you are born should never be a cause for discrimination. Yet, people discriminate against LGBTQIA all the time. Some even use religious freedom as an argument to try to support their actions. Treating people with basic human kindness and dignity should be common in our society. But when it isn't, it is the role of government to ensure our community has legal protections.

Thank you for your time and consideration.

Bhree Roumagoux  
Anchorage, AK 99502

--

Distinguished Committee Members:

My name is Candace Bell and I am writing in my capacity as President of the Alaska Christian Conference to support HB 184. We can no longer continue to discriminate against our friends and neighbors, brothers and sisters, because of their sexual orientation, gender identity or expression. It is simply immoral. Discrimination assaults the basic human dignity of the people targeted and demeans the dignity of those who allow it. So many of the arguments against equal rights are based on ignorance and irrational fear; that we are somehow less safe in the bathroom, that most Christians oppose equality, that being LGBTQ is "disordered" etc. This kind of ignorance and irrational fear has allowed us to marginalize an entire segment of society for decades and it is unjust. When we stand in the face of injustice and do nothing we become less than our best selves. Alaskan's are better than that, so, please, do the right thing. Support equality for all Alaskan's. Support HB 184. It's time.

Candace Bell  
President  
Alaska Christian Conference

--

To Whom It May Concern: Discrimination is alive and well in Alaska and has been since 1983 when I first arrived in the State. Major religious entities still discriminate against the LBGT community. These "deeply held religious beliefs" translate into discrimination for even the basic right of marriage. People should not have to worry or hide who they are at work or in their homes for fear of losing a security that all others are afforded. I encourage the State to

take the leadership role and include sexual orientation as a protected status. Thank you for your efforts to make Alaska a safer and more inclusive place to live.

Christopher Salerno  
Air Quality Specialist II  
Municipality of Anchorage  
Dept of Health and Human Services  
Anchorage, AK 99519

--

I am writing in support of House Bill 184.

The provision of equal rights to LGBT persons in Alaska continues to be a lengthy and painful process. HB 184 is an important and positive action to continue this process.

Members of our LGBT community are faced with continuing affronts from "religious" hate groups like the Alaska Family Council and Family Research Council; many lawmakers at the local, state and federal level; many organized religions; and homophobes of every stripe.

We have a President who has shown through actions in Texas and other states by his Department of Justice that LGBT rights will not be defended at the federal level.

There is "religious liberty" legislation pending at the federal level and in a number of states which would permit persons to discriminate against individual members of the LGBT community based on religious grounds.

Those of us in favor of LGBT equality will need to defend themselves against efforts in states, including Alaska, to ban the use of restrooms and to embrace so-called religious-liberty bills. The fight is now our own. We won't be able to look to the Trump administration for help.

The following Supreme Court ruling was an important and life-changing ruling for many of us who are members of the Alaska LGBT community. The 2005 ruling allowed my same-sex spouse to receive the same health benefits that the opposite-sex spouses of other Municipal employees receive.

The reliance on Article 1 Section 1 by the Supreme Court and their explanation in the Introduction of their opinion in that matter also demonstrated how it can also apply to HB 184. This is not a *new* concept. It has been used by the Alaska Supreme Court.

Article I, Section 1 of the Alaska Constitution, states in part: *"This constitution is dedicated to the principle[ ] ... that all persons are equal and entitled to equal rights, opportunities, and protection under the law."*

The Alaska Supreme Court relied on this Section when they deliberated:

ALASKA CIVIL LIBERTIES UNION, Dan Carter and Al Incontro, Lin Davis and Maureen Longworth, Shirley Dean and Carla Timpone, Darla Madden and Karen Wood, Aimee Olejasz and Fabienne Peter-Contesse, Karen Sturnick and Elizabeth Andrews, Theresa Tavel and Karen Walter, Corin Whittemore and Gani Ruthellen, and Estra Bensussen and Carol Rose Gackowski, Appellants, v. STATE of Alaska and Municipality of Anchorage, Appellees. No. S-10459.

The Supreme Court found *in favor* of the same-sex couple Appellants and *against* Defendants State of Alaska and Municipality of Anchorage: "We conclude that the public employers' spousal limitations violate the Alaska Constitution's equal protection clause."

<http://law.justia.com/cases/alaska/supreme-court/2005/s-10459-1.html>

**October 28, 2005**

OPINION

EASTAUGH, Justice.

I. INTRODUCTION

The State of Alaska and the Municipality of Anchorage offer valuable benefits to their employees' spouses that they do not offer to their unmarried employees' domestic partners. Essentially all opposite-sex adult couples may marry and thus become eligible for these benefits. But no same-sex couple can ever become eligible for these benefits because same-sex couples may not marry in Alaska.[1] The spousal limitations in the benefits programs therefore affect public employees with same-sex domestic partners differently than public employees who are married. This case requires us to determine if it is reasonable to pay public employees who are in committed domestic relationships with same-sex partners less in terms of employee benefits than their co-workers who are married. In making this determination, we must decide whether the spousal limitations in the benefits programs violate the rights of public employees with same-sex domestic partners to "equal rights, opportunities, and protection under the law." [2]

The Alaska Constitution dictates the answer to that constitutional question. Irrelevant to our analysis must be personal, moral, or religious beliefs held deeply by many about whether persons should enter into intimate same-sex relationships or whether same-sex domestic partners should be permitted to marry. It is the duty of courts "to define the liberty of all, not to mandate [their] own moral code." [3] Our duty here is to decide whether the eligibility restrictions satisfy established standards for resolving equal protection challenges to governmental action.

We do not need to decide whether heightened scrutiny should be applied here because the benefits programs cannot withstand minimum scrutiny. Although the governmental objectives are presumably legitimate, the difference in treatment is not substantially related to those objectives. We accordingly hold that the spousal limitations are unconstitutional as applied to public employees with same-sex domestic partners, and we vacate the judgment below. We ask the parties to file supplemental memoranda addressing the issue of remedy.

#### NOTES

[1] Alaska Const. art. I, § 25.

[2] Alaska Const. art. I, § 1. As the issue is framed in this case, we need not reach any separate question of the independent right to benefits of a same-sex domestic partner of a public employee.

[3] *Lawrence v. Texas*, 539 U.S. 558, 559, 123 S. Ct. 2472, 156 L. Ed. 2d 508 (2003) (citing *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 850, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992)).

Again, my (legally married) husband and I support House Bill 184 and strongly urge our elected representatives to do the very same.

Fred Traber  
Anchorage, AK

--

Please support HB 184 and encourage your colleagues to do so. It is past time to acknowledge that everyone has equal rights and is welcome to work and live here in Alaska. Not only is it the moral thing to do, but it will also help us economically if employers and employees see Alaska and a safe, friendly place to be.

Thanks for your time,

Cheryl Lovegreen

--

Dear members of the Alaska House State Affairs Committee,

I am writing to let you know how important it is for our state to protect and strengthen the rights of all individuals. As a state that has one of the most diverse populations in the country, it is vital that we take steps to make certain that all Alaskans are afforded protections against

discrimination, including discrimination based on sexual orientation and gender identity. Your support of HB 184 is important and vital to this goal.

Thank you for your work to make Alaska a place that does not tolerate discrimination.

Sincerely,

Pam Cravez  
Anchorage, Alaska  
99502

--

Dear House State Affairs Committee,

I am emailing to write my support for the statewide non-discrimination bill HB184. I have included Rep. Millet so she understands that one of her constituents supports this bill.

I cannot overstate how important this language is to LGBTQ Alaskans. It is imperative to support all Alaskans in their right to pursue happiness.

We do not live in a perfect world and we are not immune to history. Until 1974, being gay was considered a mental illness. We just recently won marriage equality, giving us the ability to protect our families and secure generational capital for our children. Despite these advances, there are groups and organizations in this state that actively pursue agendas to suppress the rights of LGBTQ Alaskans/Americans. They've filed an initiative called "Protect Our Privacy," in Anchorage that seeks to strip discrimination protections from LGBTQ Alaskans. They state that it is because they want to protect religious freedom. However, religious freedom is already protected in the First Amendment in the United States Constitution. What they desire is the right to refuse to provide services to other Alaskans based on sexual orientation. That is terrifying to me.

I have personally experienced the negative impacts of bias and discrimination based on the fact that I am a lesbian. I've been denied housing and I was also told not to discuss my private life at work. The fear, anger, humiliation and despair of these experiences stays with me. I don't know if any of you have ever been intentionally humiliated, but it is a gut-wrenching experience to be made to feel less than. Discrimination allows those who wish to feel superior to attempt to shame others by denying them the basic rights enjoyed by the majority for arbitrary reasons.

No one should be made to feel inferior, especially in Alaska - a place where hard work, individual contribution to community, and the personal freedom to make something of yourself are valued. The language of HB184 supports those values.

My wife and I have been together for 17 years. We've raised two children in this state. Like

many other Alaska parents, we hope they come back home after having their adventures around the world. They are watching to see how our state deals with fiscal and social issues. They want to live, work, and contribute to a state that values the same things as their generation. They are well-educated and have many choices. If policies are regressive, they won't bring their time and talents home, and our state will continue to experience the brain drain of a generation that can help us secure our fiscal future.

I know that my wife and I want to stay here. She is from here and I've lived here for 22 years. We've been able to make a good life in Alaska despite those who work to ensure we're not included. **We've been able to make a good life because good people have stood up next to us and fought with us for our rights.** Rights are basically another word for inclusion in the American dream.

There may come a day when the rights of minority groups don't have to be articulated so clearly to be ensured. There may come a day when the better angels of our collective nature allow us to see the humanity in each other more clearly. We aren't there yet, but I believe we can get there together.

Please support this bill. It is important to me and it is important to Alaska.

Thank you all for your time. I very much appreciate it.

Michelle Wozniak  
Anchorage, Alaska

--

Dear Chair Kreiss-Tomkins and Members of the State Affairs Committee,

I am writing this email to urge members of this committee to support HB 184, which will codify similar protections as we have in Anchorage, Juneau, and several other municipalities throughout Alaska, to include sexual orientation and gender identity into our state's non-discrimination laws.

As you craft policies in these economically difficult times, I urge this body to consider the potential financial impacts to our state.

We are sending a signal, by moving this legislation forward, that Alaska is a welcoming place that protects all of its residents in housing, employment, and public accommodations.

This is particularly critical as my generation, which will lead the economy of Alaska's future, decide whether to invest in this state or move to a place that already provides these protections.

As you consider this public policy, I hope you will take into account that this legislation will help put an end to discriminatory practices that have existed in Alaska for decades. I have heard unacceptable stories of discrimination -- whether its the employee that brought their girlfriend to the Christmas party and was subsequently fired, or the renter looking for a home and denied housing because their gender identity didn't match their documentation -- so I ask this committee to open its eyes to the needs of Alaskans.

I am proud of our Alaskan tradition of being on the forefront of many movements to provide equity for our diverse population.

I hope the legislature can continue the leadership provided by Anchorage, Juneau, and other municipalities.

Thank you for your time.

Felix Rivera  
House District 25  
Midtown Assembly Member

--

Dear members of the State Affairs committee,  
Please support HB184. LGBT people suffer from lack of protection across much of Alaska. It's time to provide for the equal protection of this community, of which I am a member. Thankfully, Anchorage led the way and passed protections. It's time for the State to do the same.

Respectfully,  
Christopher Constant

--

Hello, my name is Tristan Walsh.

Thank you, Representative Josephson, for sponsoring this bill. Thank you to the Committee for taking the time for this testimony.

I am a lifelong Alaskan born and raised in Fairbanks. I now live and work here in Anchorage, in Representative Spohnholz' District 16. I am also a member of the board of Alaskans Together for Equality.

I am here to express my support for House Bill 184. As a gay man and an Alaskan, I appreciate the protections offered in this bill.

As previous folks have no doubt told you, this bill is supported by evidence gathered by Get Equal and Identity Inc. 44% of LGBT Alaskans report discrimination in their workplaces.

In my own work experience, I have had coworkers question me on the religious consequences of my sexual orientation after I was outed to them.

I can tell you, that experience made me question the protections of my workplace and the safety of my own job in an at-will state. Alaskans should be able to live and work without fear of discrimination based on sexual orientation and gender identity. It is an even more acute fear when it comes to housing for LGBTQ Alaskans. Transgender Alaskans face even more discrimination in housing and employment than most. I have had multiple friends harassed or physically attacked because of their gender identity or expression.

Other states have already taken action and passed bills similar to the one you see before you. Over 20 other states and numerous cities offer these protections to the benefits of their residents, economies, and families.

This is a good bill. It protects all Alaskans, makes Alaska a more attractive place to do business, and brings all Alaskans under the protections that Anchorage has already extended to its residents. I can tell you, as an gay Alaskan, it is one of the reasons I appreciate living and working here.

In closing, I strongly urge you to pass this bill. It makes Alaska more equal, more competitive, and a better place to live, work, and play.

Thank you for your time, your careful consideration, and your support.

-Tristan

--

All Alaskans should have equal access to jobs, housing, financing, etc. Sexual orientation, gender identify or expression should never be grounds for discrimination and it's about time Alaska adds these categories to our anti- discrimination legislation. I fully support HB184 and hope you will to.

Kind regards,  
Debby  
Deborah Tennyson

--

Please support HB 184 to promote fairness & justice for all Alaskans.

Debbie Corral

--

House State Affairs Committee – May 3, 2017

My name is Marsha Buck and I am the treasurer of PFLAG Juneau. I would like to testify in strong support of House Bill 184. PFLAG, as you may know, stands for Parents, Families and Friends of Lesbians and Gays as well as people who are transgender, bisexual, intersex, queer, and questioning.

PFLAG Juneau strongly supports House Bill 184 as well as Senate Bill 72 because they are needed here in Alaska. Discrimination based on sexual orientation and gender identity and gender expression are sadly still alive and active in our great state where we think of ourselves as independent and strong and delightfully different than people in the Lower 48. But I've noticed in my 49 years here in Alaska that we still manage to harbor discrimination.

Two examples come to mind. I will never forget the night my phone rang in the middle of the night and I answered to find a friend sobbing. My friend was a lesbian who lived here in Juneau at the time and her landlord had just evicted her from her house because she was a lesbian living peacefully with her partner. When she asked me through her tears if the landlord could do that, all I could give her was a place to stay but not any legal recourse.

Another conversation I will never forget was with a transgender woman in Anchorage who was told by a bus driver that she could not board a city bus because of the way she looked. Apparently she looked "too trans." Again, I could not assure this woman that she had any place to turn legally.

Please pass HB 184 out of committee with your full committee support, because you are Alaskans who care about other Alaskans and you care about ending discrimination against your constituents.

*Marsha Buck  
Juneau, AK 99801*

--

Dear Chairman Kreiss-Tompkins and committee members:

I am a resident within Representative Kopp's district.

I am fully in support of this bill and feel it is long overdue.

I was very disheartened to learn of one committee members recent response to a constituent claiming that based on his experience such a bill isn't needed in Alaska.

I might suggest that it is important to step outside of one's one sphere and walk a mile in others shoes to truly have an understanding of your citizens lives.

The very willful blindness to discrimination is even more cause to enact a bill that protects those injustices some refuse to acknowledge.

There has been ample testimony about discrimination against LBGTQ persons to the legislature as well as in past years when Anchorage was mulling a similar city ordinance.

My own son has experienced harassment at school and in his workplace in Alaska.

He is currently attending college out of state.

His experiences in the state affected his choices for where to attend college and are now a major factor in his decision-making as to where to seek employment in his field of study.

This young man graduated third in his class and would have been an asset and a wonderful representative of the best of Alaska's citizens.

We stand to lose another bright mind and innovative thinker to another state because of the perception that this is not a LGBTQ-friendly place to live.

Everyone deserves protection from harassment and discrimination. This should be a no-brainer.

It is not only the right thing to do in terms of civil and human rights, but it is the right thing to do to maintain our standing as a vibrant economy and welcoming state.

Please pass this important legislation.

**Paige R. Hodson, SRA**  
Anchorage, AK 99503

--

Hello all,

I would like to show my support for House Bill 184.

As someone who "passes" as masculine despite performing a wider range of social roles and identifying as transgender, but more importantly as the friend of many others who are not afforded the same luxury of "passing" or even being accepted in their chosen social roles, I applaud your efforts to reduce the number of inconsequential reasons by which a given demographic can be unfairly discriminated against. If the goal of discrimination is to prevent unwanted behaviors, what more efficient way to do so than by leaving harmless people alone: far superior means exist than policing gender performance. Thank you for all that you do.

Most sincerely,

Alexander Bergman

--

Greetings --

I am writing as Lutheran pastor and hospital chaplain to ask that you **support House Bill 184**.

I am deeply committed to the respect and care of all people, and in particular, am passionate that we care especially for our most vulnerable. While for me these values are rooted in my Christian faith, I hope these are values that as citizens of Alaska, we can all share.

In particular, I have heard stories from transgender friends and colleagues about applying for housing, initially receiving an extremely positive response, and then, most likely after a credit check has revealed that a person's biological gender doesn't match their gender presentation, been denied housing.

Our society tends to operate with a norm that people are white, heterosexual, cisgender, often married and with children -- for those of us who don't fit those molds (and I say this also speaking as a lesbian), we often feel extremely vulnerable and the world can be a very unsafe place. I hope that we will be clear as Alaskans that we are diverse people, committed to caring for one another, not discriminating against each other, and that we hope to see communities where all people can thrive, especially the poor and vulnerable.

Thank you very much.

Rev. Susan M. Halvor

Anchorage, Alaska 99517

--

My name is Anne Green and I live in Anchorage, Alaska. I'm writing this to urge support for HB 184, preventing discrimination against members of the LGBTQ+ community.

In Anchorage we've had laws on the books for a couple of years now, protecting the rights of residents against the worst forms of discrimination based on sexual preference and gender

identity. These have had NO ILL EFFECTS to our community. Rather, now all residents can rent homes, be employed, and make banking transactions without fear of rejection based on who they are and who they love.

These are basic human rights. Recognizing these rights neither "picks your pocket" nor "breaks your leg" (to use Thomas Jefferson's basis for evaluating such bills). You, in fact, lose nothing. But the people of Alaska gain. We gain more LIBERTY, more RESPECT, more EQUALITY. Aren't those American values? Alaskan values?

Please support HB 184.

Thank you,

Anne Green

--

Hello committee

I am writing in for support of HB 184, adding gender identity and sexual orientation as a protected class.

I myself have experienced discrimination and was treated as separate but equal at a job in 2015. I identify my gender as different than my legal documents have marked. I was an intern for a non-profit who received funding from the federal government. During my new hire paper work, I informed HR of my pronouns. I was told that it was okay and nothing to worry about.

Then a week later, I was pulled aside and told that another employee felt uncomfortable about me using the men's restroom. I was told that I must use a separate single stall bathroom on the other side of the office. This companies non-discrimination policy did not cover gender identity. Since they received money from the federal government, they were to follow Obama Executive Order 13672. They stated that they can pick and choose which orders to follow.

I went to the Human Rights Commissioner to file a complaint. I was unable to do so, because they didn't recognize gender discrimination as sex discrimination, even though the Supreme Court ruled that gender discrimination is sex discrimination.

I filled with the EEOC and my case was setteled.

Now I work at a different job, without protections. I constantly worry every time we get a new employee. Protections would help ensure that this would not happen again.

Thank you for you support!

Eli Michael

--

I am writing in support of HB 184. I am a straight man who's been married, happily!, for almost 36 years. Everyone deserves the same opportunities to live and work in Alaska free from discrimination because of who they are or who they love. I encourage you to pass this legislation. Thank you.

Glenn Cravez  
Anchorage, Alaska 99502

--

I am writing to encourage you to vote in favor of HB 184. Our anti-discrimination laws need to be expanded to include prohibiting discrimination based on sexual orientation or gender identity or expression. All people who identify differently in this respect need legal protection. Alaskans value and tolerate many kinds of "differences," and those differences make us a stronger state.

Discrimination in the workplace is especially egregious. We should all be judged on how we perform in work situations, not on our personal characteristics.

Please support this bill.

Sherry Eckrich  
Eagle River, AK 99577

--

Dear Representatives Kreiss-Tomkins; Le Doux; Tuck; Wool; Birch; Johnson; Knopp; Kopp:

All of us LGBTQ members and supporters appreciate that House State Affairs is carefully listening to our concerns. As Rep. Josephson said in his introduction, the quest for LGBTQ human rights flows in the long river of American civil rights, as historically marginalized groups speak up about how fellow citizens automatically disregard them. We hope there will be an opportunity for public testimony on HB 184. We want to share our personal stories and show that there is an ongoing urgent need to protect us LGBTQ and create a wider climate of fairness in Alaska.

HB 184 is all about creating a more healthy Alaska. As someone who taught high school, I know young Alaskans are always secretly concerned about some quality of theirs, something about how they look or naturally act. Creating legal respect for LGBTQ differences helps all young Alaskans be more confident about who they naturally are. Anything that causes disrespect and

discrimination for LGBTQ also increases violence against women and school bullying. None of us wants anyone, especially young LGBTQ to receive hostility. Alaska needs all our young people on deck for engineering and infrastructure needs. For 15 years I worked at the Juneau Job Center helping Alaskans find work. I regularly heard stories of LGBTQ job discrimination. Even workers who were not gay but appeared LGBTQ told stories of work hostility.

As I go about my day, many Juneau people go out of their way to express support for LGBTQ equality. Since we got marriage equality 2 years ago, they often think we are now fully protected from all discrimination. Unfortunately there are many nooks and crannies of our daily lives where we LGBTQ do not have equal opportunity. Last week a group of us met with local LGBTQ high school students, and they detailed the anti-LGBTQ slur words under the breath and unheard by teachers, looks that demean, shoves, group laughs and staring, eye rolling, gestures of disrespect. They said these behaviors happen daily, and they have to steel themselves through each school day.

Last summer after magnificent support from all across Juneau, with lots of churches speaking out for LGBTQ equality, the Juneau Assembly passed an updated non-discrimination ordinance. A resounding YES vote. 29 people testified for our equality. Many cried as they told about losing jobs and apartments, being kicked out of public accommodations, being turned down for financial services. Testifiers spoke from a special soul depth about how they had been wounded by years of unhealthy disfavor and daily barbs that chip away at one's soul.

HB 184 creates more health for LGBTQ who have been wounded by blatant discrimination. HB 184 creates more health for Alaskan parents of LGBTQ who easily worry about the safety of their kids. (I'm in my 70's, and when I came out as a lesbian in the 1970's, my parents and brother always worried about my safety. Lots of decades of family worry.) HB 184 creates more health for transgender Alaskans and their families. Trans people are very vulnerable to violence and murder. 50% of trans people report suicide attempts. America is very hostile to transgender Americans. With HB 184 Alaska can shine as a state that stands for respect.

HB 184 is a no cost common sense way to create more healthy communities. Anchorage and Juneau have led the way in LGBTQ protections, Bethel is not far behind, and now Alaska is ready to show the country that we stand for expanded healthiness through expanded equality. This is a perfect time for Alaska to move forward.

In the 21 states that have created statewide LGBTQ protections, very few LGBTQ have had to sue for their rights. Having legal rights in place creates an environment of new respect.

My wife, family physician, Dr. Mo Longworth, reminds me that the Alaskan Academy of Family Physicians has always strongly spoken out for statewide LGBTQ protections. Research from the National Academy of Family Physicians shows data on improved health outcomes for individuals and communities when LGBTQ protections are in place.

Thank you for considering that HB 184 is a healthy choice for Alaska, and thank you for passing this legislation to the next committee.

Sincerely,

Lin Davis  
Juneau, AK 99801  
24 year resident

--

Dear Representatives,

I am writing to express my support of House Bill 184. Updating this law will help ensure that all of Alaska's workers are judged on their job performance and not their sexual orientation. I am proud to have grown-up in a state that passed the Anti-Discrimination Act in 1945 after moving testimony delivered by Elizabeth Peratrovich. I feel her testimony is relevant here when she said "No law will eliminate crimes, but at least you, as legislators, can assert to the world that you recognize the evil of the present situation and speak of your intent to help us overcome discrimination."

I graduated from Juneau Douglas High School in 2008. While I attended school I was a member of the Gay Straight Alliance (GSA). I have many friends, colleagues, and peers in town with a variety of sexual orientations and am grateful for this diversity. It is important to me that all people who make up our community have equitable access in the workplace and that no one has to fear for their job based on their gender identity or expression.

I ask that a vote be taken and that HB184 is passed through the committee.

Gunalchéesh, thank you,

Mallory Story

May 2, 2017

Representative Jonathan Kreiss-Tomkins  
Chairman, House State Affairs Committee  
State Capitol – Room 411  
Juneau, Alaska 99801



**Re: Opposition to HB 184**

Dear Rep. Kreiss-Tomkins:

We are writing to express our opposition to House Bill 184:

“An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression.”

The Alaska Family Council strongly opposes this legislation for the following reasons:

- 1) HB 184 proposes to add highly subjective, poorly defined, and inappropriate categories to the existing anti-discrimination statute.
- 2) HB 184 will lead to coercion and punishment for individuals, organizations, and small businesses who simply decline to engage in speech or participate in events that are contrary to their religious beliefs or personal convictions.
- 3) HB 184 would jeopardize the privacy of individuals using intimate facilities such as locker rooms, showers, and restrooms.

**Flawed categories of “sexual orientation” and “gender identity or expression”**

Existing law in Alaska (AS 18.80.210) prohibits discrimination based on immutable characteristics (such as race, color, sex); and based on characteristics that may be mutable over time but which nonetheless can be objectively discerned (such as pregnancy, marital status, physical or mental disability, religion).

In contrast, the terms “sexual orientation” and “gender identity or expression” do not describe concrete and verifiable traits, but instead refer to a highly subjective claim of identity. These are relatively novel terms in social discourse, and would have been unrecognizable even a generation or two ago. **HB 184 defines “sexual orientation” as: “heterosexuality, homosexuality, and bisexuality.”** But these constituent terms are not further defined, as if their meaning is self-evident. However, we are aware of no other place in Alaska statutes where these words appear.

In the absence of clear definitions in statute, these terms will be interpreted in whatever manner suits the interests of unelected bureaucrats and judges. Clear definitions are crucial in all law, but especially in non-discrimination law. For example, does “homosexuality” most fundamentally describe a psychological disposition, a form of behavior, or both? This distinction is crucial, because there is a world of difference between evaluating a person based on a *behavior* and evaluating a person based on an *innate trait*, such as skin color.

Dr. Paul McHugh (Professor of Psychiatry, Johns Hopkins University School of Medicine) and Dr. Lawrence Mayer (Biostatistics Professor, Arizona State University) have written extensively about the nebulous aspects of these terms:

“While some people are under the impression that sexual orientation is an innate, fixed, and biological trait of human beings – that, whether heterosexual, homosexual, or bisexual, we are ‘born that way’ – there is insufficient scientific evidence to support that claim. In fact, the concept of sexual orientation itself is highly ambiguous; it can refer to a set of behaviors, to feelings of attraction, or to a sense of identity.” (“Sexuality and Gender,” Dr. Paul McHugh and Dr. Lawrence Mayer, *The New Atlantis*, Fall 2016)

The definition of “gender identity or expression” contained in HB 184 is even more hazy: **“having or being perceived as having or expressing a gender, self-image, appearance, or behavior, regardless of whether that gender, self-image, appearance, or behavior is different from that traditionally associated with the sex assigned to that person at birth.”**

This proposed definition would codify into law a tendentious, ideological, and unscientific view of gender. The reference to sex as something that is “assigned to that person at birth” suggests a certain arbitrariness to the matter of gender, as if one’s sex was something foisted upon a person by the attending physician. A person’s sex is not “assigned” at birth, it is present from the moment of conception and *observed* at birth.

In addition, the use of the formulation “having or being perceived as having or expressing...” is troubling. Perceived by *who* – the alleged victim of discrimination, the alleged perpetrator, a third party, a government investigator, or all the above?

Why don’t we see this “having or being perceived as having” distinction applied to other categories within the anti-discrimination code – e.g., “having or being perceived as having” a certain race, skin color, marital status, etc? This “perception clause” takes an already vague definition and turns it into a subjective morass, thus empowering attorneys, state bureaucrats, and judges to interpret it in whatever manner suits their personal ideology.

Finally, terms such as “self-image” and “expression” involve nebulous concepts that are not clearly defined in law, and which may be constantly evolving. Laws that protect our rights should be unambiguous, not moving targets that mean different things to different people.

**Coercion and punishment for those who conscientiously object**

HB 184 is virtually identical to laws in other jurisdictions that are routinely used to bully and punish those who simply don't wish to express ideas or celebrate events that violate their deepest held beliefs. The following are just a few of the more notorious cases:

- **Christian wedding photographers punished for declining to photograph same-sex ceremony.** In 2006, the owners of a New Mexico photography business – Jonathan and Elaine Huguenin – were approached by a lesbian couple who wanted to hire them to photograph their same-sex “commitment ceremony” (at the time, same-sex marriage was not even legal in NM). The Huguenins gladly provided many services to gay and lesbian customers, such as portrait photography. But Elaine politely declined to participate in the ceremony, as it would require the use of her artistic talents to express a message that conflicted with her Christian beliefs. Nevertheless, the lesbian couple filed a complaint with the New Mexico Human Rights Commission – arguing the Huguenins had violated New Mexico’s prohibition of discrimination based on “sexual orientation.” The Commission agreed – they ruled against the Huguenins and ordered them to pay over \$6,600 in attorneys’ fees. The case was appealed through the state court system – with the New Mexico Supreme Court also ruling against the Huguenins. One Supreme Court justice coldly wrote, “[the Huguenins] now are compelled by law to compromise the very religious beliefs that inspire their lives,” stating that this is “the price of citizenship.”
- **Florist sued after declining to decorate venue for same-sex wedding.** The owner of Arlene’s Flowers in Richland, Washington, has happily served customers for many years who identify as gay or lesbian – including long-time customer Robert Ingersoll. But when Ingersoll asked the florist shop owner, Barronelle Stutzman, to decorate the venue for his upcoming same-sex wedding ceremony, Stutzman felt that she had no choice but to decline. Stutzman felt that using her creative talents to enhance a ceremony that conflicted with her deeply held religious beliefs was impossible. Stutzman’s decision to live by her conscience has cost her dearly – both the Washington State Attorney General and the ACLU have sued her. A lower state court has ruled against Stutzman, and so has the Washington State Supreme Court. The case may be appealed to the U.S. Supreme Court. The lawsuits in question target not only the business Arlene’s Flowers, but also Barronelle Stutzman personally. Thus, if she loses, the 72-year-old grandmother faces not only the loss of her business, but her home as well.
- **Christian bakers driven out of business.** The owners of Sweet Cakes by Melissa, Aaron and Melissa Klein, are devout Christians. When a same-sex couple approached them about creating and decorating a cake for a wedding, the Kleins felt they could not provide this service without violating their conscience. This resulted in an enforcement

action against them from the Oregon Bureau of Labor and Industries, which ordered the Kleins to pay \$135,000. The draconian fines along with public harassment forced the Kleins to shut down their business in September 2013, a devastating blow for these parents of five children. The State of Oregon also imposed a “gag order” on the Kleins, demanding that they not discuss their faith-based reasons for declining to participate in same-sex wedding ceremonies. The Oregon BOLI Commissioner, who has been spearheading the case against the Kleins, made a chilling statement that the Kleins had “disobeyed Oregon law and needed to be rehabilitated.”

HB 184 proposes a legal regime that is inimical to a free society, because it mistakenly categorizes *disagreement* as “discrimination.” How many individuals, rather than endure costly and gut-wrenching lawsuits, as in the examples above, will instead abandon their chosen occupation in favor of something that is “lower profile”? Does this sound like tolerance? Are we promoting diversity when we fashion laws that force Christians to the margins of society, by essentially placing many careers off limits, lest someone be offended by their religious beliefs?

**Undermining privacy of persons using intimate facilities such as locker rooms, etc.**

HB 184, by prohibiting discrimination based on “gender identity and expression,” would directly lead to the reckless policy of allowing men to enter women’s locker rooms, showers, and restrooms – and vice versa.

Many other jurisdictions have adopted similar laws, and the evidence is mounting that this is a disastrous social experiment. Under the guise of protecting the less than one percent of the population that self-identifies as “transgender,” these laws trample on the privacy and safety interests of the other 99 percent of citizens. Here are examples of the disorder created in the wake of these laws:

- **Headline: “Man caught undressing in front of girls at Green Lake locker room.”**  
Just weeks after the Washington state Human Rights Commission adopted a rule allowing men to enter intimate facilities reserved for women, a young man entered the locker room at a Seattle-area swimming pool. The following report from local news station KOMO is self-explanatory:

“David Takami with the Seattle Parks and Recreation Department said a man arrived at the Evans Pool in Greenlake Monday afternoon and paid to use the lap pool.

“Takami said the man then entered the women’s locker room and took off his shirt in front of a local girls swimming team, which had just finished practicing. Several parents and other women using the locker room became alarmed and alerted pool staff.

**Alaska Family Council  
Testimony Re: HB 184  
Page 5**

“When staff members confronted the man, he left the locker room and went swimming. When he was done, Takami said the man went back into the women’s locker room and was again asked to leave. **The man resisted, telling staff members the law had changed and he now had a right to use the locker room of his choice**, according to Takami.” (*emphasis added*)

- **Headline: “College Allows Transgender Student in Women’s Locker Room”** (*ABC-30 Action News – 10/29/12*).

“Some call it an outrage; others equal rights – after a 45-year old student... born a man, began to use the women’s locker room, because the student identifies as a woman. A young girl saw the student naked. Her mother called police.”

“Jason Wettstein, Evergreen State College spokesman said, ‘The college has to follow state law. The college cannot discriminate... on the basis of gender identity. Gender identity is one of the protected things in discrimination law...’”

- **Headline: “Lawsuit filed after transgender student gets locker room access in Palatine.”** (*Chicago Tribune – 05/05/16*).

“A group of... students and parents is suing the U.S. Dept. of Education and Illinois’ largest high school district after school officials granted a transgender student access to the girls’ locker room. In a lawsuit filed in federal court... the group contends that the actions of the Dept. of Education and Palatine-based Township High School District 211 ‘trample students’ privacy’ rights and create an ‘intimidating and hostile environment’ for students who share locker rooms and restrooms with the transgender student.”

No one, and especially the government, should expect young girls to undress and be exposed to a member of the opposite sex in intimate facilities such as showers and locker rooms. The safety and dignity of persons using private facilities must be protected.

In conclusion, we ask you to reject HB 184. This ill-conceived legislation threatens privacy, undermines freedom, and does not protect the common good.

Sincerely,



Jim Minnery, President  
Alaska Family Council

# ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

## SPONSOR STATEMENT

### *HB 184 – Prohibiting Discrimination Based on Sexual Orientation, Gender Identity and Expression*

Historically, Alaska has been a forerunner for human rights. We passed our Civil Rights Act almost two decades before the national act of 1964. Yet, we don't protect the civil rights of LGBTQ Alaskans. This population continues to lack protection from discrimination in housing, financing, employment, and public accommodations—protections we afford to all other Alaskans.

House Bill 184 resembles laws passed in 21 other states that provide equal protection against discrimination. HB 184 adds "sexual orientation, gender identity and expression" to the list of classes protected under current Alaska law, which includes "race, religion, color, national ancestry, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy, or parenthood."

In 2016, the Alaska State Commission on Human Rights passed a resolution urging the legislature to make the very change proposed by this legislation, given the commission lacks authority to address discrimination of this kind. We have yet to assist this vulnerable population.

All Alaskans should enjoy the right to participate in commerce and live active lives in our communities, free from restrictions based on their sexual orientation, gender identity, or gender expression. Such restrictions harm our state and harm the dignity of Alaskans.

Additionally, HB 184 includes a ministerial exemption to protect the constitutional right to free exercise of religious institutions in our state.

At no cost to the state, HB 184 will strengthen civil rights statutes to include one of the fastest growing communities in Alaska, make our state more attractive to workers, and shape Alaska, once again, into a shining model of human rights advocacy in the United States of America.

Please contact my office at 465-4939 with any questions or concerns.

Hello, my name is Kasey Casort, and I'm from Fairbanks. I am testifying in support of HB 184.

In high school, I was the Vice President of my school's Gender Sexuality Alliance, and I wrote a letter of support for a different version of this bill when I was fourteen. It was the first bill I ever printed out and went through with a highlighter, because it mattered so much to me. Now I'm nineteen, and I know that it just makes sense to have fundamental protections under the law.

Young people like me have grown up watching America learn to accept us for who we love and the way we live, but in Alaska we can still be fired, kicked out of our homes, denied loans, and prevented from achieving our full potential based on our identities. I am an ally, and I know that it's time to move this bill out of committee and onto the floor, where our representatives can show us that they're ready to stand up for all of their constituents.

I appreciate the opportunity to testify today, and I urge you to support HB 184. Thank you.

Thank you, Mr./Madam Chair. For the record my name is Channon Price, and I live in House District 04/Senate District B. I have been a voting citizen in that district for over thirty years, during which time I have also raised a family. I have come today to offer my views on House Bill 184 (SB 72), which would update Alaska's non-discrimination statutes. The right to self-expression should only be limited when it poses a clear danger to the safety of others. Within that limitation, any person should enjoy the same rights as others. Historically, Alaska lead the nation in establishing protections against discrimination in housing and employment based on race, creed, color and national origin. Our great state has added protections covering individuals against discrimination based on disability, age, sex, marital status, pregnancy and parenthood. This is because there was and continues to be a sense that our state is great because it is plural: that this is not just a great state for, as an example, white males. Regrettably, in 2015 the Alaska Supreme Court found a very narrow definition of the protections based on sex, choosing to exclude sexual orientation, gender identity, and gender expression from those protections. I personally know of Alaskans who have been impacted, both in their attempts to find employment and in their attempts to obtain housing, by discrimination against orientation or against identity/expression. This is wrong: orientation and identity have no relation to how well one does their job, and what goes on behind closed doors -- our private lives -- is no one's business as long as it stays with the limitation noted above. Discrimination is based on beliefs. You are entitled to your belief, as long as it does not cause harm to others. It was a founding principle of this nation that one group of citizens never have the right to impose their religious beliefs on another group, as this infringes on the right of the second group to practice their beliefs as they saw fit, to choose their beliefs. Orientation and identity are even more fundamental than beliefs, as one does not have the choice of one's orientation and identity: in that, they are like one's color or national origin. Thus, it is just as wrong to discriminate against an individual based on their orientation and identity. For these reasons, I wholeheartedly support this bill, and I encourage the committee to move the bill to the full House for its consideration and approval. I would like to thank the committee for their time in considering my point of view.

Hello Representative Jonathan Kreiss-Tomkins,

My name is Emily Berman, I live in House District 17, and I'm representing myself. I am testifying in support of House Bill 184 because I believe that the State of Alaska should have non-discrimination laws for everyone, including our LGBTQ+ community members.

An overwhelming 97% of transgender people report having been harassed on the job, and 26% have been fired because of their gender identity. I have a close transgender friend who quit his job this past December because of harassment regarding his gender identity. He is talented, skilled, and hardworking, and was an asset to his employer. He is just one example of many everyday Alaskans across the state who live in fear of being fired, denied housing, public service or educational opportunities because they are gay or transgender.

I encourage all of you to pass House Bill 184.

Emily Berman

Thank you Chairman. For the record, my name is Jeff Chen. I live in House District 18, and I am speaking on behalf of myself.

I'm testifying in support of House Bill 184 because I believe the State of Alaska should have non-discrimination laws for everyone, including our Lesbian, Gay, Bisexual, Transgender, and Queer community members.

I am a Taiwanese American. I work in the youth conservation community. And I am on the Board of Directors of the Alaska Chinese Association, though I am only representing myself in my testimony.

Our history is full of acts of legal discrimination based on local, state, and federal policies. Immigrant families know discrimination -- legal discrimination. For example, the Chinese Exclusion Act of 1882 barred Chinese immigrants from entering the country and gaining access to housing, work, and places of public accommodation. The ramifications were felt throughout society, and led to physical violence and literally the massacre of Chinese communities.

There is no justice in excluding based on race, religion, color, national origin, age, sex, disability, and marital status -- just as there is no justice in discriminating based on sexual orientation and gender identity.

44% of LGBTQ respondents reported facing discrimination at work. In Alaska, that discrimination is legal, and that discrimination is leading to an increase in anti-LGBTQ violence across the country.

I support HB 184 because our LGBTQ family and friends should not have to face discrimination in the workplace, in public, or at home. Remember, through the perseverance of Elizabeth Peratrovich and other Alaska Native and Alaskan advocates, our state passed some of the nation's first anti-discrimination laws. I urge you to support HB 184. Thank you.

Good Morning!

I am contacting the House State Affairs Committee in support of House Bill 184: Non-Discrimination Statue to Promote Fairness. Extending the protections already recognized by the State and Federal government to include sexual orientation, gender identity and gender expression is a change that needs to occur and has long been lacking. Members of the LGBT community are citizens of the US, and should not be treated any differently than any other citizen in their employment, housing, public accommodation and financing opportunities. And yet, there is still the pervasive attitude that members of the LGBT community can be treated as second class citizens, primarily on aspects of religion or discomfort with their lifestyle. This isn't allowable legally, against any other group. For example, it is blatantly illegal if housing is denied to a couple based on the situation that they aren't married, even (and especially) if the opposition to their lifestyle is based on religious conviction. How is that different than the same situation, where instead of a an unmarried couple, it is a married LGBT couple? I implore that the representatives here move HB 184 forward, to apply anti discrimination rights consistently to all US citizens. Thank you very much for your time and efforts. If you have any comments, concerns, or questions for me, please feel free to contact me.

Sincerely,

Michael J Szidloski, II

Constituent in Fairbanks, Alaska

Dear Representative,

I would like to address my support for HB 184. As I age, I am now in my mid-60s, I find that my definition of tolerance has become more open. I still have strong opinions about ideas, but I find my strongest opinion is to allow others to have a basic dignity of life, the ability to make their own life choices without fear. I may not agree with someone's lifestyle, but they have the right to pursue their choices with the protection of our laws, just as I have protection for my choices. I see no harm to others with the passage of this law and fail to see why we would not, as a state and a country, allow equal protection to all our citizens.

Thank you for taking the time to listen to my opinion on this issue. I hope I can count on your support for HB 184.

Sincerely,

Jane Reilly

Dear Representatives,

I am emailing in support of HB 184. Sexual orientation and gender identity are unrelated to performance in the work place, and should not be cause for workplace discrimination or firing. Nor should sexual orientation be cause for discrimination from housing or public accommodation. Though certain sexual orientations or practices may be distasteful to some, it is important to remember that these practices are private and have no business being origins of cultural discrimination in areas employment, housing, and financing practices.

We already prohibit discrimination based on race, religion, color, national origin, age, sex, disability, and marital status. It is time to protect lesbian, gay, bisexual, and transgender people as well.

Please use this email as my public testimony.

Thank you,  
Catherine Coward  
Anchorage, AK 99507

My name is David Clark and I am 22 years old. Throughout my professional life, I haven't encountered direct discrimination or sexual harassment based on my identity. However, I've been bullied severely in grade school without any substantive help from school administration, and it took me until the Summer of 2016 to come to terms with my sexual identity. I'm lucky that I've only been employed in places where I don't feel I need to shut parts of myself out in order to work successfully with others, and I have yet to encounter hateful individuals in stores or on the street; I've always been able to bring my full authentic self to the table, whether it be among friends or family, at the store, or even the workplace, along with a professional demeanor and a damn good work ethic that's led me to do some good things. However, THIS STORY IS MINE, AND IT DOES NOT SPEAK FOR EVERYONE ELSE. There are trans individuals I know and love that are harassed on public transit in Anchorage, and I remember stories told from family that they would be denied service for being gay, during the early 80s. That being said, knowing that there are still no state statutes protecting LGBT individuals like myself in service establishments and in the workplace, is unacceptable. Though societal values are changing, WE STILL DESERVE TO TAKE LEGAL ACTIONS FOR PEOPLE WHO DISCRIMINATE AGAINST AND HURT US, AND FOR THE PERPETRATORS TO BE HELD RESPONSIBLE FOR THEIR ACTIONS. For how good of a name I've made for myself thus far professionally, it pains me to know that my fellow LGBT people that work hard and take pride in all that they do could have a good path cut very short at the whim of a hateful or ideologically-bound employer, and to have their employers be subject to zero legal consequences, even if the plaintiff could gather enough proof to show discriminatory hiring practices and/or a hostile work environment that is baseless and not at the fault of the worker themselves. It's a black eye on our state that our State Legislature hasn't yet made strides to protect ALL of our people and to ensure that we ALL are entitled to take legal action on the basis of baseless discrimination, after countless LGBT individuals have made strides and contributed to our state through embracing the Alaskan spirit, pulling up their sleeves, and working hard just like everyone else. PROTECT LGBT ALASKANS NOW. PASS THIS BILL.

Thank you for adding protections against discrimination based on sexual orientation and gender identity or expression to Alaska State Law.

I was able to listen to the public testimony for the bill yesterday and I would like to respond to a comment made by one of the testifiers, a woman opposing the bill. She stated that the American Academy of Pediatrics had come out against transgender children. I was surprised to hear this and did some research. The American Academy of Pediatrics did not make any such statement. The organization that made this statement was the American College of Pediatricians (ACPeds).

This small recently formed group has nothing to do with pediatrics.

They are classified as a hate group by the Southern Poverty Law Center. Their main purpose is to oppose parenting by same-sex parents.

(<https://www.snopes.com/americas-pediatricians-gender-kids/>)

Please pass HB 184 to allow all Alaskans who harm no one else to live in peace.

Thank you,

Dael Devenport  
Anchorage, Alaska

With compassion for all beings

Hello Representatives in House State Affairs,

**I am opposed to both bills.**

I spent quite a bit of time on the phone today waiting to testify, only to be denied the opportunity to do so. I only mentioned one of the bills to the lady who transferred me to the conference call. I listened to the last testifier, hoping it was me but it wasn't, thus this email.

I am glad I listened, because I really appreciated the woman in Nenana who works in the school there and is very concerned with the lgbtq lifestyle being promoted to such an extent that students feel 'odd' if they don't comply and participate. This appears to be a prevalent problem throughout the US right now. Bullying is happening against 'straight' students.

There is nothing new under the sun. Bullying was prevalent in school when I was a kid / teen too. I was the victim of it myself. No law will prevent it. Good parenting and teachers who care for their students will go a long way to discourage it, and strengthen teens against the consequences of it.

I came to Alaska when I was three months old. I grew up and worked and retired in Anchorage. I now live in Palmer. I am a retired school teacher, and yes there are many lgbtq+ employees in the ASD, and many same-sex couples who come to parent-teacher conferences. No, I did not ask people about their sex lives, so there was never an issue between us even when I knew quite well their lifestyle by the bold hints they dropped. I maintained professional relationships with all co-workers, students, and their parents. Not hard to do, really.

These two bills are nothing less than an attempt for this group of people to elevate themselves to a position where they can persecute Christians who believe the Bible, just as has happened in the lower 48. Some of those who testified even hinted at it with their testimony, speaking out against Christians. **We do not need the kind of problems these two bills would bring to our state.**

One last thing. Campaign season is coming. Many are watching how you vote on this in your committee, and if it makes it to the floor those votes will be watched too.

Carol Carman

District 9E

Do not let these unfair pieces of legislation come to a vote.

Why should one group LGBT, be elevated to an unfair level compared to the rest of us?

This is America equality does not equal special priviledges for special interest groups.

Deborah