

Letter Against Bathroom Legislation

July 18, 2017

Dear Honorable Senator or Representative,

My name is Omar Narvaez and I am a Law and Policy Advocate for Lambda Legal Defense and Education Fund (“Lambda Legal”). Lambda Legal is the Nation’s oldest and largest nonprofit legal organization making the case for equality for lesbian, gay, bisexual and transgender (“LGBT”) people for more than forty years. Lambda Legal has served our Texas LGBT community from its South Central Regional office in Dallas for more than twenty years.¹ The message from Lambda Legal is simple: Say “no” to ending local municipal control for non-discrimination policies or entertaining any legislation that targets LGBT people.

HB 46, HB 50 and SB 23 would strip away the ability of cities, schools, and other local entities to pass or enforce nondiscrimination protections in multiple-occupancy bathrooms, showers, and changing facilities, for attributes other than those covered under state or federal law. Collectively, these bills will put LGB people and especially transgender people into impossible situations when it comes to everyday life. Current laws already protect against predators in restrooms and other sex-separated spaces. There has been no showing whatsoever that those laws are insufficient.

Stripping away local control of our cities and school boards is inconsistent with wanting to keep Washington D.C. out of Texas, so why would Texas want to take away the local values of communities that have already enacted protections that are not expressly protected by federal laws like veteran’s status, sexual orientation and gender identity. The people we elect to make decisions for our communities at the local level should not be disenfranchised.

This legislation strips protections that some Texas cities have had for LGBTQ people for more than a decade:

¹ Our work has included cases such as *Lawrence v. Texas*, in which the U.S. Supreme Court struck down the Texas “Homosexual Conduct” law and all of the remaining state laws that criminalized same-sex intimate relationships. *Lawrence v. Texas*, 539 U.S. 558 (2003).

Dallas since 2002, Austin since 2004, and Fort Worth since 2000. Voters in Dallas approved a charter amendment that included protections against discrimination based on sexual orientation, gender identity or expression and veteran status in 2014 by a vote of 76% to 24%. HB 46 and SB 23, in particular, would override the will of those voters.

Transgender people face discrimination in every area of life, some on a daily basis. The National Transgender Discrimination Survey showed that 26% of transgender people lost a job due to bias, 50% were harassed on the job, 20% were evicted or denied housing, and 78% of transgender students were harassed or assaulted. The discrimination is increased for transgender persons of color.²

Clear non-discrimination laws covering gender identity and expression are an important part of the solution because they can help stop the discrimination before it happens. Clear laws often cause businesses to have policies against discrimination and train employees to follow those policies.

Instead, without any basis in fact, these bills cruelly target some of our state’s most vulnerable young people — transgender students. If enacted, it would inflict further stigma and pain on students who are simply trying to make it through the school day, get an education, and survive the mean-spirited accusations of some adults who should be seeking to understand and support them rather than singling them out for discrimination. Please let me stress: transgender students are not a threat to anyone.

In addition to the fact that these bills are fatally flawed as a legal matter, it also would be devastating for our Texas economy. We know this from studies of the business climate here in Texas. For example, the Texas

² S.E. James, *et al.*, *The Report of the 2015 U.S. Transgender Survey* (National Center for Transgender Equality, 2016), <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>

Association of Business's analysis predicts up to \$8.5 billion in GDP losses and up to 185,000 lost jobs.³

But the most concrete evidence comes from North Carolina, where that state's House Bill 2 of last year has brought terrible consequences to the Tar Heel state.⁴ This is because targeting transgender people sends a powerfully negative message that a state is not open and welcoming to everyone. In addition to massive corporate opposition to North Carolina's HB2,⁵ major entertainers, sports leagues, and consumers all have expressed outrage, including through boycotts with huge, negative economic effects.⁶

Several states and cities continue to have travel bans into North Carolina for non-essential travel and those include: California; Washington state; Minnesota; New

³ Keep Texas Open for Business, *New Study Finds Up to \$8.5 Billion GDP Loss, 185,000 Jobs at Risk if Texas Passes So-Called "Religious Freedom" and "Bathroom Bills"* (Dec. 6, 2016), available at <http://www.keeptxopen.org/launch-release/>; Texas Association of Business, *The Economic Impact of Discriminatory Legislation on the State of Texas* (Dec. 2016) (analysis concluding that SB6 would cause economic losses in Texas' GDP ranging from \$964 million to \$8.5 billion, up to 185,000 lost jobs, and other substantial economic impacts), available at <http://www.keeptxopen.org/wp-content/uploads/2016/12/KTOB-Economic-Study.pdf>.

⁴ See, e.g., Christy Mallory and Brad Sears, *Discrimination, Diversity and Development: The Legal and Economic Implications of North Carolina's HB 2* at 32, n. 184 (May 2016) (estimating that anti-LGBT law could cost state \$5 billion annually), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Discrimination-Diversity-and-Development-The-Legal-and-Economic-Implications-of-North-Carolinas-HB2.pdf>.

⁵ Ryan Bort, *A Comprehensive Timeline of Public Figures Boycotting North Carolina Over the HB2 'Bathroom Bill,'* NEWSWEEK (Sept. 14, 2016) (chronicling boycotts by entities such as the NCAA, NBA, ACC and 68 leading national businesses) ("*Timeline of Boycotts*"), available at <http://www.newsweek.com/north-carolina-hb2-bathroom-bill-timeline-498052>; Emma Grey Ellis, *Guess How Much That Anti-LGBTQ Law Is Costing North Carolina*, WIRED (Sept. 18, 2016) (estimating that NC has lost \$395 million due to HB2-related boycotts), available at <https://www.wired.com/2016/09/guess-much-anti-lgbtq-law-costing-north-carolina/>.

⁶ Ryan Bort, *Timeline of Boycotts* (itemizing boycotts by entertainment figures including Bruce Springsteen, Ringo Starr, Itzhak Perlman, Maroon 5, Pearl Jam, Demi Lovato and Nick Jonas well as production studio Lionsgate, *Wicked* composer Stephen Schwartz, Cirque du Soleil, and 269 children's book authors and illustrators).

York City; Los Angeles; Chicago; San Francisco; Seattle; Washington, D.C.; Portland, Ore.; Baltimore; Atlanta; Oakland, Calif.; Cincinnati; Salt Lake City; West Palm Beach, Fla.; Santa Fe, N.M.; Portland, Maine; Palm Springs, Calif.; Burlington, Vt.; and Wilton Manors, Fla.

Also, because of the passing of the discriminatory HB 3859 soon to take effect on September 1, 2017 signed by Govern Abbott, the State of California has banned non-essential travel into the Lone Star State. Several conventions have already cancelled their plans to come to Dallas according to Visit Dallas or are no longer even considering Dallas or the State of Texas because of the potential of passing license to discriminate legislation.

The economies in El Paso, Austin, San Antonio, Dallas, Fort Worth and Plano are thriving because businesses have an added incentive to relocate and/or stay in these cities. Simply, the talent is more apt to live and stay where they feel welcome.

On July 17, 2017 the CEOs of AT&T, American Airlines, Southwest Airlines, Atmos Energy, BNSF Railway, Celanese, Crow Holdings, DFW Airport, EJ Smith Enterprises, Beck Group, Fluor, Kimberly-Clark, Tenet Healthcare and Texas Instruments all Dallas based major corporations came out against these discriminatory bills stating they are bad for Texas business as well as the Texas Association of Business.

HB 46, HB 50 and SB 23 are manufactured to take away the rights of local communities, in their attempt to move the law backwards. This will only create confusion in the cities with existing protections that were enacted by the very representatives we elected.

Texas is known as the "Friendship" state and HB 46, HB 50 and SB 23 simply are un-Texan. Honorable Representative or Senator, please do the right thing — the Texan thing — and reject these bills. Keep Texas known as the "Friendship" State, with a growing, thriving economy and a bright future for all of us.

Sincerely,

Omar Narvaez

Law and Policy Advocate
Lambda Legal