

Visited 07/12/2011

Eddie Harrell, Jr., *Chair*

Leonard Hubert, Commissioner

Grace Ramos, Commissioner



Tom Roberts, Commissioner

Rashmi Yajnik, Commissioner

G. Michael Payton, Executive Director

Governor Ted Strickland

**Before the House State Government Committee
Proponent Testimony of Ohio Civil Rights Commission
House Bill No. 176
June 3, 2009**

G. Michael Payton, Executive Director

The question before the General Assembly is how men and women with a different sexual orientation, identity or expression are to be treated in places of employment, public accommodations, housing, and credit. The Ohio Civil Rights Commission (“OCRC”) supports the passage of House Bill No. 176, and believes it is necessary to ensure equal opportunity and fair play for the following reasons.

Ohio Has a Strong Public Policy Against Discrimination

The question of what is Ohio’s policy on discrimination generally has been asked and answered several times down through history. The General Assembly and the citizens in the state of Ohio have consistently concluded that discrimination is unfair and unwanted because it violates fundamental values of equality and fair play. The root of Ohio’s policy against discrimination stems from a uniform desire to value and accept the contributions and talents of all individuals.

When the Ohio Civil Rights Act, R.C. Chapter 4112 was enacted approximately 50 years ago and was amended to provide broader protections over time, the General Assembly set forth a standard and expectation for how Ohio’s citizens should be treated in places of employment, public accommodations, and housing. There is little doubt that civil rights laws have made us a better nation and state. Likewise, there is little doubt about the harmful effect of acts of discrimination on individuals and our state as a whole. Discriminatory acts preclude individuals from achieving their highest potential and from enjoying the fruits of the American Dream set forth in our Declaration of Independence, Constitution, and laws. Former Chair of the OCRC, Dr. Arthur L. Peterson, correctly stated in 1964 that, “(there) must be a strong commitment to

and faithful execution of the anti-discrimination laws of Ohio...the beneficial results of these laws will speak for themselves.” Dr. Peterson’s prophetic words are as truthful today as his words were in 1964.

The recent passage of civil rights laws (e.g., Ledbetter Act, ADA Amendments Act) by our leaders in the United States Congress, the issuance of Executive Order No. 2007 10-S by Governor Strickland, and the recent amendment to the Ohio Civil Rights Act which prohibited discrimination on account of “military status” by the General Assembly demonstrates the continued commitment in our nation and state to equal opportunity and fair play.

Ohio’s policy on discrimination was best articulated by former Ohio Supreme Court Justice Andy Douglas who acknowledged “(t)he existence of a strong public policy against discrimination.” He further stated that, “(t)ime and time again (the court has found)... there is no place in this state for any sort of discrimination no matter its size, shape, or form or in what clothes it may masquerade.” Genaro v. Central Transport, Inc., (1999) 84 Ohio St. 3d 293.

The passage of House Bill No. 176 would therefore be consistent with Ohio’s long-standing and strong public policy against discrimination. Passage of House Bill No. 176 would also send a strong and clear message that Ohio is a place where all individuals can prosper and reach their highest potential.

The Passage of House Bill No. 176 is Necessary to Ensure Equal Opportunity & Fair Play

The OCRC is charged with the statutory task of studying the problems of discrimination in addition to enforcing Ohio’s Civil Rights Act. Although it is no secret that individuals with a different sexual orientation and/or sexual identity or expression do not have protection from discrimination in Ohio, some individuals still bring tearful stories of heartbreak, disappointment, and unfair treatment to the attention of the OCRC. The stories involve a variety of issues sometimes resulting in the loss of a job, or apartment, or harassing boorish behavior by others through words and conduct against persons with a different sexual orientation, identity, or expression. Some acts are hate crimes resulting in physical injury. At its core, such conduct robs individuals of their dignity and sense of self-worth having nothing whatsoever to do with their talent, ability or diligence.

I have attached a summary of present day discriminatory incidents brought to our attention along with cases that we have been asked to investigate as examples of the harm suffered by those with a different sexual orientation, identity, or expression. Each of these stories demonstrates that harmful discriminatory acts against persons with a different sexual orientation and/or sexual identity or expression are indeed occurring in our state. The passage of House Bill No. 176

would therefore address this problem and seek to eliminate this egregious discriminatory conduct.

The Passage of House Bill No. 176 Will Not Bestow “Special Rights” Upon Any Persons

The passage of House Bill No. 176 will not bestow “special rights” or privileges upon any persons other than the commonly accepted right to be free of discrimination in places of employment, public accommodations, and housing. There is nothing “special” about recognizing and reiterating Ohio’s long-standing policy against discrimination. Rather than bestowing special rights or privileges, the passage of House Bill No. 176 would provide a level playing field so that all persons can enjoy the fruits of their labor. The granting of this right will not result in a detriment to others just as the granting of other civil rights protections down through time did not result in a detriment to others then. Every citizen in the State of Ohio could avail themselves of Ohio’s civil rights protections at some point in their lives. For example, Ohio’s prohibition against race discrimination is applicable to all races – African-American, white and Native American. Likewise, the prohibition against sex discrimination applies to both males and females. The prohibition against religious discrimination is inclusive of all religions and not just a select few, and prohibitions against age discrimination benefits citizens that are at least 40 years of age or older.

President Obama has correctly stated that the provision of civil rights is not a zero-sum game. The granting of the basic right to be free from discrimination does not result in others being harmed. Citizens who are in need of protections against discrimination certainly do not consider themselves “special” just because our civil rights laws afford them equal opportunity and fair play.

The Passage of House Bill No. 176 Will Require Additional Investigative Resources

The OCRC estimates that an additional 300 cases will be filed annually if House Bill No. 176 is enacted. The average OCRC Investigator handles approximately 75 cases per year resulting in a need to hire 4 Investigators. The estimated salary and benefits to hire an Investigator is \$75,000. The OCRC is therefore requesting an additional \$300,000 per year in order to properly administer House Bill No. 176.

The cost of doing nothing about discriminatory harm occurring to citizens with a different sexual orientation, identity or expression is outweighed by a need to reaffirm and ensure equal opportunity and fair treatment for all Ohio citizens.

House Bill No. 176 is the right legislation, for the right reasons, and at the right time.

Visited 07/12/2011

House State Government Committee
House Bill No. 176
Proponent Testimony
G. Michael Payton, Executive Director
Ohio Civil Rights Commission
June 3, 2009

Case Summary

1. **Maitland v. Aveda**

A Jewish male youth who exhibited feminine qualities was harassed by his instructors at a beauty school. He was informed publicly that “Jewish faggots” were not welcome and he was ultimately removed from the class permanently.

At the same beauty school, the only African-American student who also identified as being gay, was subjected to harassing behavior on account of his sexual orientation. When he took a leave of absence for personal reasons, he was denied re-entry to the program despite the fact that there were no discipline or performance related issues on his record.

2. **Schaffnit v. Fresh Vegetables**

A Lesbian employee of 10 years served as an Operations Manager with distinction. When a new Plant Manager was hired, the Lesbian employee was subjected to physical and verbal abuse based on her “different sexual orientation.” When she complained to the Human Resource Department she was terminated three days later due to the “issues” that existed between her and the Plant Manager.

3. **The Landlord Issue**

A 40-year-old female tenant who experienced significant health issues invited the gay son of a friend to stay with her. Upon meeting the outwardly gay youth, the woman’s landlord called young, gay man a “worthless faggot” and demanded that he leave the premises. When he did not leave, the landlord called the sheriff who threatened to arrest the youth for trespassing. The sheriff ignored the pleas of the distraught tenant that her friend’s son be permitted to stay with her.

House Bill No. 176

Proponent Testimony

G. Michael Payton, Executive Director

Ohio Civil Rights Commission

June 3, 2009

4. Porter v. U.S. Express Enterprises

A male to female transgender applicant was subjected to harassment during the training program. She was asked about her sex, called a "HeShe," segregated from the other trainees, and told by the manager that he would be personally disgusted to share training space with her.

5. Housing Harassment

A gay male couple faced harassment because the person they hired to work on remodeling their basement was teased by neighbors for working for gays. Shortly after completing the work and being paid, the young man began coming back to their house and harassing them about being gay. He ultimately dressed up in a Ku Klux Klan outfit and, wielding a baseball bat, brought a cross on their yard and began to pound the bat on the doors and walls of the house.

6. Disparate Treatment Case

A lesbian employee was involved in an incident with two co-workers. Subsequently the co-workers were suspended, but the lesbian was told to resign or else she would be terminated. After being notified of the gender based charge allegation, the employer made it clear that the charge was filed by a lesbian who had no civil rights protections.

7. Brunner v. All-N-One Food & Fuel

A female employee was harassed by co-workers for not acting "feminine". She was chastised for not wearing makeup, told to start acting like a girl, and advised by a male supervisor that he was going to bring the "bitch" out of her. Her hours were slashed and eventually she was terminated because her female co-workers were not comfortable working with her.