

The Association of Politically Active Christians

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2008 MEMORANDUM OF OPPOSITION

S.3753-A/A.6584-A (GENDER EXPRESSION NON-DISCRIMINATION ACT)

Contact: William F. Carlson, Chairperson

The Association of Politically Active Christians respectfully expresses its opposition to S.3753-A/A.6584-A, the Gender Expression Non-Discrimination Act (GENDA), for the following reasons:

- 1. GENDA is unconstitutionally vague.** GENDA defines the term “gender identity or expression” as “having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.” This definition is so imprecise as to be almost completely unintelligible. GENDA’s lack of clarity offends the Constitution and would lead to confusion in New York courts.
- 2. GENDA would create a public policy in favor of controversial behavior that arises from a psychiatric disorder.** Cross-dressing and transsexualism are not identities; they are forms of behavior that often arise from recognized psychiatric disorders such as Gender Identity Disorder and Transvestic Fetishism. GENDA would encourage New Yorkers to pursue a “transgender” lifestyle and identity when such a lifestyle may reflect an underlying psychiatric disorder, and when that lifestyle and identity can result in individuals obtaining elective surgeries that damage their physical and mental health. Behavior that is correlated with a psychiatric disorder should be met with compassionate treatment options, not protective legislation.
- 3. GENDA would compromise women’s safety by allowing cross-dressing individuals to access opposite-sex public bathrooms.** GENDA literally opens the door for men dressed as women to assert a civil right to utilize women’s bathrooms in public places throughout New York. GENDA also opens the door for male students to assert a civil right to cross-dress and use opposite-sex locker rooms in New York’s public schools. GENDA does nothing to address these very real public safety concerns.
- 4. GENDA is based on a fallacy.** GENDA refers to the sex of an individual as being “assigned . . . at birth.” A person’s sex is not a legal construct or a matter of personal choice, but a God-given biological reality.
- 5. GENDA would have an adverse impact on New York employers.** How are New York’s employers to implement GENDA if it is passed? One can easily imagine a pony-tailed male employee being disciplined by his employer for failing to comply with company policy regarding men’s hair length and contending that such a policy infringes upon his civil right to be free from discrimination. How is the employer in that scenario to know whether the employee’s hair length has “gender identity” implications?
- 6. GENDA’s hate crimes provisions create different penalties for the same crimes, depending upon the identity of the crime victim.** APAC is opposed to criminal behavior and to hatred toward individuals – including individuals who identify as transgender. However, it is morally wrong to make laws that create special categories of crime victims who are entitled to more protection than other members of society. Criminal behavior against individuals who identify as transgender is appropriately remedied through enforcement of existing law.

For all of these reasons, APAC urges members of New York State Senate to oppose GENDA.