

TRANSGENDER PEOPLE: AT RISK IN DELAWARE

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"The harvest is past, the summer is ended, and we are not saved." -- Jeremiah 8:20.

It was February 1998 when the first sexual orientation antidiscrimination bill was brought before our Delaware lawmakers. It and five subsequent such bills over the ensuing decade have failed to become law. The first two bills were voted down; the last four were the victims of two hostile Senate presidents *pro tem* and their use of the infamous and anti-democratic "desk draw veto."

Even more unjust than Delaware's legislators ignoring the workplace needs and other rights of their gay constituents is that our lawmakers have never even considered the civil rights of transgender Delawareans. There is no law in the Delaware Code nor has there ever even been a bill seeking to protect these Delaware citizens. While sexual orientation is at least present in the Code in our hate crimes law, gender identity is not. Not only are transgender Delawareans mostly invisible in the public discourse, as far as Delaware law is concerned, they do not exist as such.

Transgender persons are also not protected by existing federal law. Most courts have ruled transgender citizens are not included under Title VII, which bans sex discrimination. The Americans with Disabilities Act (ADA) explicitly exempts transgender people. Yet more than one transgender person per month is murdered in this country, and discrimination against them abounds.

So who are these citizens whom our Delaware and U.S. lawmakers spurn?

"Transgender" is an umbrella term denoting those who see their gender identity as being different from the sexual markers, chiefly genitalia and DNA, which they received at birth. Thus, "transgender" can describe male-to-female and female-to-male transsexuals, although many transgender people do not choose to transition physically from one sex to the other. The term also includes cross dressers who do not do so for entertainment purposes, but to conform to their self-perceived gender identity.

Transgenderism refers to one's *gender identity*: who does one understand oneself to be? Homosexuality, bisexuality and heterosexuality all refer to one's *sexual orientation*: to whom is one sexually attracted? Transgender persons may or may not be gay. Children as young as pre-school have self-identified as transgender. Psychiatry and the related sciences have been unsuccessful in truly altering a transgender identity. Transgenderism, like gayness, is not a choice.

The social challenges faced by transgender citizens are daunting, to say the least, and can cascade. Workplace discrimination may result in unstable housing conditions, which then can put them at the mercy of public programs and public officials, who may not respond respectfully or appropriately to them. Such stressors may force them into a health care system that is often unprepared for transgender people's needs, and so on.

In light of the extreme societal bias against them, many transgender people choose to remain hidden, reinforcing the belief that their numbers are negligible. Dr. Lynn Conway of the University of Michigan estimates there is one male-to-female transgender person, or

transwoman, per every 500 people. In Delaware that would be over 1700 transwomen, without counting transmen.

(Further information about transgenderism is at Delaware Renaissance and at the National Center for Transgender Equality, both accessed from the Links page of my website, Towardequality.org, at www.towardequality.org.)

A 2007 poll by Peter D. Hart Research Associates, Inc. revealed that 72 percent of Americans agree that "fairness is a basic American value and employment decisions should be based solely on qualifications and job performance, including for transgender people."

I contend that the next iteration of the antidiscrimination bill in the Delaware Legislature should cover not only sexual orientation as in the past, but also gender identity. Eleven states, the District of Columbia, and numerous counties and municipalities have already passed laws protecting transgender citizens. We can – and should -- do it too.

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