

I am here today to testify in opposition of House Bill 4836. The bill, in short, would eliminate provisions related to ethnic intimidation crimes and create new categories of groups defined under “bias-motivated crimes.”

Under current law, “ethnic intimidation” is defined as: Maliciously, and with specific intent to intimidate or harass another person because of that person’s race, color, religion, gender, or national origin, causing physical contact with another; damaging, destroying, or defacing any real or personal property of another; and-or threatening, by word or act, to do one of the aforementioned acts.

House Bill 4836 defines “bias-motivated crimes” as selecting a target of a crime based in whole or in part on 1 or more of the following characteristics; disability, gender/gender identity, origin, race or ethnicity, sexual orientation, status as a veteran, regardless of whether or not the perpetrator’s belief or perception of the characteristic is correct.

I find this troubling for a number of reasons, but one of the most outrageous aspects of this legislation is the notion that some groups are worthy of greater protection than others. Engraved above the entrance of the U.S. Supreme Court building in Washington D.C. is the phrase “equal justice under law.” This bill stands in direct violation of this principle.

Furthermore, this legislation is vague, and leaves too much wiggle room for interpretation. Anyone expressing disagreement with a particular lifestyle like homosexuality may be accused of a bias-motivated crime and/or be subject to civil penalties. We are witnessing this first-hand with Jack Phillips, the baker from Colorado who is now being sued for the third time for refusing to make cakes for certain individuals based on his own religious views – religious views that are protected by the First Amendment of the United States Constitution. In addition, there is a lack of concrete scientific evidence regarding gender and gender identity. Someone’s gender, whether actual or perceived, can be changed at any time, and can be based on appearance, self-image, or behavior.

This sets a dangerous precedent because there is no possible way an individual can ascertain what another individual identifies as at the time. This also leaves room for potential abuse because an individual can claim bias-motivated discrimination by simply switching gender identities when the perpetrator truly has no discriminatory motivation.

This instance is difficult for an individual to differentiate as compared to an individual with a disability that can typically, but not always, be identified physically or socially. Under this legislation, however, the definition of disability is again far too vague and leaves too much room for interpretation. Current law also has protections in place in regard to discrimination based on an individual’s disability. Mental disorders can often manifest when triggered by certain things, or some people often use medication to help alleviate their conditions. This again creates a scenario where the perpetrator has no possible way to ascertain whether an individual has a mental disorder or not.

I was diagnosed with ADHD as an adolescent. ADHD is defined as a mental disorder. Do you think I should be allowed greater protections?

We are currently living in a time where the goalposts of homosexuality and gender identity are constantly being moved. First, it was LGBT, then LGBTQ, and now LGBTQA+. This dilemma is far too difficult to decipher, especially when it comes to a court of law and the possible repercussions under this bill.

“Opponents of hate crime laws also feel that prosecution of hate crimes further divides society by reinforcing the marginalization of minority groups. Opponents of hate crime legislations point out that all violent crimes are the result of the offender’s contempt for the victim. They argue that in such a case, all crimes are hate crimes. If there is no alternate rationale for prosecuting some people more harshly than others for the same crime based on who the victim is, a situation arises where different offenders charged with the same offence are treated unequally under the law. This results in violation of the United States Constitution.”