

Keep PA Fair

The Real Impacts of HB1510 / SB974 on People of Faith: RELIGIOUS LIBERTY

In practice, laws like HB1510 / SB974 have been used to limit freedoms of speech, conscience, and religion. This public policy would create for the first time in Pennsylvania law special status for “sexual orientation” and “gender identity” with broad scope in application to employment, education, housing, and public accommodation. The popular examples of so-called “discrimination” actually involve conscientious objectors to the redefinition of marriage who are obligated to stand by their most deeply held convictions. Rather than punishing these individuals, business owners, and ministries, we should protect space for all Pennsylvanians to be true to themselves. It would undermine the diversity and tolerance that we already have to pass a law that treats those who believe marriage is uniquely between a man and a woman as if they are, as Justice Scalia put it in his *Windsor* dissent, “*hostes humani generis*,” or “enemies of the human race,” whose livelihoods should be confiscated.



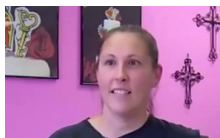
Barronelle Stutzman

WASHINGTON STATE: Barronelle Stutzman, owner of Arlene’s Flowers and Gifts, was sued in April 2013 by Washington State Attorney General and the American Civil Liberties Union for refusing to provide flowers for a same-sex wedding. The gentleman in question had been **a longtime client of Ms. Stutzman whom she knew was gay and whom she served for 9 years**. She only declined one event, a same-sex wedding, not because he was gay, but simply because of the event and the message conveyed by her participation. The court **not only fined her business, but found her personally liable for damages, which could wipe out her business and personal savings**.



Catholic Charities

CATHOLIC CHARITIES: In Illinois, Boston, DC and San Francisco were **forced out of the adoption and foster care ministry** because they adhered to church teaching that children should only be placed with married couples of one man and one woman. Catholic charitable ministries would no longer be able to make contributions to the common good of Pennsylvania without violating their religious beliefs.



Melissa Klein

OREGON: Sweet Cakes by Melissa, an Oregon bakery owned by Melissa & Aaron Klein, **closed its storefront** in August, 2013, after months of litigation and **threats to their family**. The Kleins chose not to participate in a lesbian couple’s wedding by providing a cake. An Oregon court **charged the Kleins \$135,000 in damages**. An appeal has been filed.



Elaine Huguenin

NEW MEXICO: Elaine Huguenin of Elane Photography **was forced to pay nearly \$7,000 in legal fees** after the New Mexico Supreme Court held that her refusal to use her artistic expression in the service of a same-sex wedding violated New Mexico’s human rights law. A judge wrote in a concurring opinion that violating one’s conscience is sometimes **“the price of citizenship.”** Huguenin’s application to the United States Supreme Court was denied.

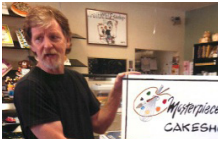
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Blaine Adamson

LEXINGTON, KENTUCKY: Blaine Adamson of Hands on Originals, a printer, refused to print shirts for the Lexington (Gay) Pride Festival because **the agenda of the event violated his beliefs**. Mr. Adamson arranged with another local company to produce the shirts **at the same price he and the parade organizers had previously agreed to**. A member of the Lexington Human Rights Commission found against him and demanded that his employees undergo “diversity training,” but a state court overturned this ruling. For now, Adamson’s right to free expression is intact.



Jack Phillips

COLORADO: Jack Phillips of Masterpiece Cakes faced a **\$500 fine or one year in prison** for failing to provide a cake for a same-sex wedding event in Colorado. Colorado did not even recognize such marriages at the time.



Cynthia and Robert Gifford

NEW YORK: The Gifford family owns and lives on a small farm in upstate New York that is open for seasonal activities such as berry picking, but also has event facilities. The Giffords, who are Catholic, could not in conscience host a same-sex wedding *at their home*. **New York charged the Giffords \$13,000 in fines and penalties**, forcing the family both to stop hosting wedding ceremonies and to lay off their full-time event planner.

A wedding vendor who chooses not to service a same-sex wedding is not discriminating against a person’s being (i.e. not because of *who they are*). Instead, the vendor believes that cooperation in a particular *spiritually meaningful event* encroaches on his or her conscience. There is a fundamental distinction between discrimination against a person’s being on one hand, and declining to provide services for a particular event or refusing to materially support a message on the other. Unfortunately, the states that have enacted legislation similar to HB1510 / SB974 have destroyed this distinction. This substantially broadens the definition of discrimination in a manner that forces citizens into cooperation with an event or message that violates their consciences.

Pennsylvania is already a tolerant community, founded by William Penn as a sanctuary for religious liberty. Unlike the historical systematic deprivation of jobs, services, and housing to African-Americans in an attempt by whites to maintain white supremacy which was appropriately addressed by our non-discrimination laws, people who identify with the LGBT community have never been, and certainly are not now, in an analogous situation. On the contrary, *it is extremely hard to come by examples of discrimination precisely because we are a tolerant society*.

Most businesses are focused on ensuring they can pay the bills and keep the lights on, and look to hire the best employee or serve any customer they can. As the advocates of HB1510 / SB974 readily admit, many businesses, including every Fortune 500 company Pennsylvania, already voluntarily have policies prohibiting adverse employment action on the basis of sexual orientation. We should permit businesses to put into place a diversity of employment practices that represent a diversity of values, while maintaining basic fairness and order. Free people of goodwill are able to navigate this diversity on their own without government enforcing a particular orthodoxy on all its citizens and their businesses and ministries. Government intervention is not only unnecessary; it harms the ability of people to navigate diversity in freedom and peace.

The Real Impacts of HB1510 / SB974 on Privacy: PERSONAL FACILITIES

SB974 and HB1510 add a provision clarifying that the law does not require the creation of new facilities for gender identity or expression. But that does not solve the privacy issue, it highlights the privacy issue. Courts in other states with gender identity laws have held that accommodating a biological male who identifies as female by providing a unisex or “family style” restroom option instead of permitting them to use the restroom of the opposite sex, is itself an act of discrimination. The result of this law then, **is that biological males and females will have the right to access restrooms, showers and locker rooms of the opposite biological sex** – in schools, places of employment, and at public accommodations.

WASHINGTON STATE: Evergreen State College must permit a **45-year-old transgender man** (who identifies as a woman) to use a women’s locker room. A college spokeswoman said: “The College cannot discriminate based on the basis of gender identity. **Gender identity is one of the protected things in discrimination law in this state.**” This room is used by local youth swim teams including **girls as young as 6 years old.**

COLORADO: State courts ruled that a **6-year-old boy who identifies as a girl** must be permitted to use the girl’s room at his elementary school due to the state’s gender identity law.

MAINE: In the aftermath of the passage of a gender identity statute, a Maine school was sued for permitting a **5th grade transgender boy** (who identifies as a girl) to use a staff restroom, but not the girls room. The Maine Supreme Court ruled against the school, meaning that **the boy must be permitted to use the girls’ facilities.**

MAINE: The Gay & Lesbian Advocates and Defenders (GLAAD) sued a Denny’s restaurant franchisee in Maine after a location refused to let a man who dressed and identified as a woman use the women’s restroom. The franchisee settled with GLAAD, agreeing that **“all transgender individuals...will have access to the restroom consistent with their stated gender identity.”**

PHILADELPHIA, PENNSYLVANIA: According to the official legal guidance accompanying the city’s Fair Practices Ordinance, all employers in Philadelphia must permit transgender and other “gender nonconforming” employees to use a **“gender-identity appropriate restroom or locker room.”** Furthermore, the document refers to discomfort with sharing such facilities with those of the opposite biological sex as based in **“unsubstantiated fears and discriminatory attitudes”** that employers are bound by law to attempt to **“eliminate.”**

