

## **Testimony in Opposition to House Bill 1577**

(regarding gender identity and nondiscrimination in public accommodations)

Joint Committee on the Judiciary  
The General Court [Legislature] of the Commonwealth of Massachusetts  
Boston, Massachusetts  
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My name is Peter Sprigg, and I represent the Family Research Council from Washington, DC.

However, I am a former resident of Massachusetts. I am a graduate of Fitchburg High School, and I was an aide to U.S. Rep. Robert Drinan in his district office in Waltham.

I urge you to oppose House Bill 1577.

I want to point out that under this bill, assertion of a transgender identity is not dependent on the completion of gender reassignment surgery. Rep. Barney Frank, a former member of this legislature and openly gay former member of Congress, once warned (this is a direct quote except for one word), “I’ve talked with transgender activists and what they want—and what we will be forced to defend—is for people with [male sex organs] who identify as women to be able to shower with other women.”<sup>1</sup>

Because of this concern, a version of the federal Employment Non-Discrimination Act introduced by Congressman Frank in 2007 contained an exemption for “shared shower or dressing facilities in which being seen fully unclothed is unavoidable.”<sup>2</sup> This is consistent with federal court precedent, which has stated, “Shielding one’s unclothed figure from the view of strangers, particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity.”<sup>3</sup>

However, House Bill 1577—which would apply to “a rest room, . . . bathhouse, seashore facilities or swimming pool” and to a “fitness facility”—contains no such exemption. It is shocking that this bill gives no consideration to the legitimate concern many citizens have about being exposed to, or exposing themselves to, a person of the opposite biological sex.

However, there is an additional concern about such laws being exploited by predators to assault women and girls. House Bill 1577 would make this more likely, even though Massachusetts law states that “gender-related identity shall not be asserted for any improper purpose.” The reason is that citizens will be less likely to challenge a man dressed as a woman who enters a women’s facility—because citizens will fear that such a challenge could result in a “discrimination” claim against them. For example, recently, a woman protested the presence of a man in the women’s locker room at a Planet Fitness gym in Michigan. She was told that the man’s “sincere, self-reported gender identity” was female—and the complaining woman had her gym membership revoked.<sup>4</sup>

It would be irrational to elevate subjective “gender identity” above objective biological sex in public accommodations law. I urge you to oppose House Bill 1577.

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<sup>1</sup> Loren King, “Task Force Drops Support for Federal Anti-Bias Bill,” *Bay Windows* (June 10, 1999); no longer available online as of January 20, 2015.

<sup>2</sup> H.R. 2015, 110th Congress 1st Session, April 24, 2007, accessed June 15, 2015, <https://www.congress.gov/110/bills/hr2015/BILLS-110hr2015ih.pdf>.

<sup>3</sup> *Michenfelder v. Sumner*, 860 F.2d 328, 333 (9<sup>th</sup> Cir. 1988).

<sup>4</sup> Emanuella Grinberg, “Planet Fitness revokes woman’s membership after transgender complaint,” *CNN*, March 9, 2015, accessed June 15, 2015, <http://www.cnn.com/2015/03/07/living/feat-planet-fitness-transgender-member/>.