

Good evening. I want to thank the West Vincent Township Board of Supervisors for giving me the time and platform to update everyone regarding the current status of legally protected classes in the Commonwealth.

This is my third time discussing anti-discrimination ordinances at a BOS meeting. I had hoped to announce that, for the time being, there is no longer a need for such an ordinance at the local level. I had heard that Governor Wolf had issued an executive order under the PHRA (Pennsylvania Human Relations Act) that expanded the definition of protected class "sex" to include sexual orientation and gender identity. Until recently, I did not understand that Wolf's order only expanded protections to state employees and contractors. Everyone else is unprotected. And marital status is still not protected, even under the yet to be passed PA Fairness Act.

Governor Wolf is still pushing for the passage of the Fairness Act and has bipartisan support to do so ¹. The act would expand protected status to include sexual orientation and gender identity and expression. The problem is that Speaker of the House, Mike Turzai of Franklin County, has placed the Act in the State Government Committee which is chaired by ANTI-LGBT Daryl Metcalfe. Metcalf has been blocking the vote.

Unfortunately, even if the Act came to a vote and passed, it would still not extend to marital status, leaving both married and unmarried couples subject to legal discrimination.

Currently, under Federal and State law, there are no protections against discrimination based up sexual orientation, gender identity, and marital status. Businesses offering services to the public, as well as landlords, are permitted to refuse service and employment to anyone based up actual or perceived orientation, identity, and marital status. Heterosexuals, homosexuals, bisexuals, and married or unmarried people can be legally discriminated against. In my opinion, this is both unethical and immoral.

Further complicating the issue at the Federal Level is deep disagreement between the DOJ and EEOC. The EEOC has expanded their definition of "sex" to include gender identity and sexual orientation ². The DOJ has not.

Until the Federal government and/or the Commonwealth codifies additional protections, it falls upon local municipalities to do so in order to protect everyone from discrimination.

To date, at least 44 Pennsylvania municipalities, including Philadelphia, Pittsburgh, West Chester, Phoenixville, Kennett Square, Lower Merion, Royersford, Lancaster, and Reading, have adopted anti-discrimination ordinances. Owen J Roberts School District has also codified their policy and banned discrimination against students and employees based up sexual orientation, gender identity, and marital

¹ <https://www.pahomepage.com/news/gov-wolf-pushes-for-vote-on-lgbt-non-discrimination-protections/842988916>

² https://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm

status³⁴. Imagine how progressive West Vincent will appear if we follow suit. Our community has always taken a progressive and forward thinking approach in protecting and preserving our environment. This is something citizens on both sides of the isle can agree upon. I believe the same modern and progressive attitudes can be applied towards human rights.

For those that worry about infringement upon their deeply held religious and/or philosophical beliefs, please note that the Religious Freedom Protection Act of Pennsylvania provides for relief⁵.

At one of the previous meetings, some residents were concerned about being forced to rent to LGBT individuals. In an ideal world, fair housing exceptions would apply allowing them to do so. But until codified at the Federal or State level, it is up to municipalities to extend protections with “Fair Housing like” exceptions. That is why I suggest we adopt an ordinance of our own design to mediate discrimination disputes, with the ability to levy fines. Biological sex, race, skin color, religion, national origin, and familial status are all protected. Its time we add sexual orientation, gender identity, and marital status to the list.

A volunteer Human Rights panel of five West Vincent residents could oversee complaints and attempt to resolve the matter. Complainants would be advised that the PHRA commission is also taking complaints, but technically the Commonwealth has no legal means to resolve them unless they are state employees or contractors⁶. Again, our panel would have the ability to levy fines to encourage compliance.

The US Supreme Court may be hearing a case pertaining to title VII (seven) and the definition of “sex”. So, all of this may be moot in the near future. Or not, depending upon how SCOTUS proceeds.

Meanwhile, suits in the US District Court for the Western District of Pennsylvania⁷ and Second Circuit have confirmed that under title 7 sex includes gender identity and sexual orientation.

I think it would be prudent to preemptively adopt a local ordinance until such time as it is no longer needed.

The fact remains that discrimination against the transgendered has resulted in them living in almost three times as much poverty than other Pennsylvanians (31%) and with double the unemployment rate

³ <http://www.boarddocs.com/pa/ojrsd/Board.nsf/goto?open&id=ARYLCV55F768>

⁴ <http://www.boarddocs.com/pa/ojrsd/Board.nsf/goto?open&id=ATJLTT56BE03>

⁵ <https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/2002/0/0214..PDF>

⁶ <https://www.jdsupra.com/legalnews/phrc-will-accept-discrimination-36452/>

⁷ <https://www.natlawreview.com/article/sexual-orientation-discrimination-under-title-vii-recognized-western-district>

(11%). 16% reported losing a job because of gender identity or expression, and 21% faced housing discrimination. 23% of Pennsylvania transgendered faced employment discrimination⁸.

There are LGBT people in our community. There are unmarried and married people living, working, playing, and shopping here. Owen J Roberts had the foresight to protect their students and employees. Isn't it time that West Vincent do the same?

Yours truly,

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⁸ <https://www.pghcitypaper.com/Blog/archives/2017/05/30/us-survey-shows-transgender-individuals-in-pennsylvania-face-disproportionate-discrimination>