

Leggett Signs Bill For Protection of Transgender People

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Montgomery County Executive Isiah Leggett (D) signed off yesterday on legislation to protect transgender individuals from discrimination, over the objections of religious and community groups that say the measure would give male cross-dressers access to women's restrooms and locker rooms.

Opponents said they plan to gather signatures for a referendum to overturn the protections, and they have enlisted a California lawyer to consider filing a lawsuit.

"Leggett has broken the biological barriers that separate male and female facilities," said Michelle Turner, spokeswoman for a coalition of opponents who have created a Web site, *Notmyshower.com*, for their campaign.

With Leggett's signature, Montgomery follows the lead of 13 states, the District, Baltimore and 90 other local jurisdictions that have banned discrimination against transgender people, according to the National Gay and Lesbian Task Force.

Leggett studied the fine print of the legislation and was convinced that the County Council had addressed the concerns of opponents, county

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Transgender Defense Bill Has Raised Concerns Over Restrooms, Locker Rooms

spokesman Patrick Lacefield said.

"Through the public debate and the unanimous support of the council in addressing this narrow aspect of discrimination — I support the measure," Leggett said in a statement after signing the bill in his office with little fanfare.

The bill, proposed by council member Duchy Trachtenberg (D-At Large), prohibits discrimination based on gender identity in housing, employment, taxi and cable service, and public accommodations. The bill sparked an outcry from a network of parents and members of religious groups who were troubled by how the measure would apply to private facilities, such as health club locker rooms.

Initially, council members in committee agreed to allow a person to use such facilities based on the gender that a person "publicly and exclusively" asserts. That meant that a biological male who identifies as a female could have used the women's restroom.

Trachtenberg agreed to pull references to such facilities after hearing concerns of colleagues and the community. The county's anti-discrimination code makes exceptions for areas considered "distinctly private or personal," and Michael Dennis, compliance director for the county's Human Rights Commission, said the exemption would extend to locker rooms and restrooms. This would allow a facility owner to segregate based on biological sex.

Even so, opponents said the measure is written so vaguely as to allow cross-dressers to use the restroom of the opposite sex. They point to action at the federal level, where protections for transgender people were dropped from legislation approved in the House that

bans discrimination based on sexual orientation.

Montgomery's law "defies common sense," said lawyer Robert Tyler of the California-based Advocates for Faith and Freedom, who has been contacted by the Derwood Alliance Church in Rockville, the Women's Christian Temperance Union of Maryland and Parents and Friends of Ex-Gays and Gays. "It says you are what you think you are in so many words. It's not based on your biology or your anatomy. It's based upon being whatever you choose to be at any point in time."

But officials in cities with similar protections said fears of people abusing the law to gain entry into private facilities were unfounded. Human rights officials in the District, California and Colorado, for instance, reported only a handful of phone calls from employers seeking guidance for legally segregating restrooms or locker rooms.

Cynthia Goldstein, an attorney with San Francisco's Human Rights Commission, said that city's law has not been used as a cover for criminal activity since it was enacted more than a decade ago.

"There's such a strong stigma associated with transgender people that people don't adopt that type of persona lightly," she said. "If criminal intent is at issue and someone wants to harm women, they will, in my experience, enter the restroom dressed as men."

But in at least two jurisdictions, either the law or regulations passed to administer the new protections specifically dealt with potentially awkward situations in areas such as locker rooms or shower rooms.

Regulations passed along with San Francisco's law make an exception for areas where there is un-



County Council member Duchy Trachtenberg (D-At Large) proposed the bill to prohibit discrimination against transgender people.

avoidable nudity. If there is not a private stall available for changing or showering, for instance, the regulations call for the facility owner to make reasonable accommodations, such as a unisex bathroom or a private employee area. But if there are stalls in the locker room, the law requires access to the women's side for a transgender woman who is biologically male.

In the five years since the city of Boulder, Colo., added "gender variance" to its anti-discrimination law, the Office of Human Rights has not had any complaints from businesses or employers, according to Administrator Carmen Atillano. Boulder's code distinguishes between transgender individuals who have had sex reassignment surgery (they may use the facilities of their anatomical sex) and people who are in transition (they must be granted "reasonable accommodations" to access such facilities).

Along with the protections passed in the District in 2005, regulations require single-stall restrooms in public facilities to be marked in a gender neutral way. Alexis Taylor, general counsel for the Office of Human Rights, said the District's law is meant to "protect those who are legitimately trying to use the facilities."