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LWVSC Testimony, S.199, Senate Education Subcommittee

The League of Women Voters of South Carolina agrees that everyone has a right to safety and privacy in public restrooms. Anyone entering a restroom with the intent to harm another person should face arrest and prosecution. However, legal measures already exist to ensure this.

S.199 would require that everyone use only those school restrooms and changing facilities associated with their capacity, past or present, to produce either ova (eggs) or sperm. This would create serious problems for transgender persons while not contributing to protecting the privacy and safety interests of the public. In fact, it promises serious compromises of personal privacy for both transgender and cisgender persons.

Enforcement of this statute would be highly intrusive and objectionable. Those whose conformity with the standard provided by this bill is challenged, correctly or incorrectly, could be subject to intimate physical examination. Who is going to investigate what form of gamete one can produce or could produce at some time in the past. How would they go about that investigation? Further, the natural phenomenon of intersex genitals has no legal place in the criteria provided in this statute. Would a CT scan be used to evaluate internal organ development in these cases?

Even when there is no question regarding the standard established by this bill, there remain serious problems. Those who are transitioning usually do not, to varying degrees, conform in appearance to expectations of the gender defined by their genital organs at birth. Demanding that they use a restroom designated for their birth gender therefore exposes them to harassment and bullying. It also creates a significant source of discomfort for cisgender persons, who would often see the appearance of transitioning individuals as concerning and even threatening in that space.

However, it is not just transgender people who do not always conform to social expectations of gender appearance. Many cisgender persons do not conform to those same expectations and could face challenges to their choice of restroom or changing facility.

In practice, transgender school restroom use has not been a source of significant problems. There already have been reasonable negotiated accommodations made in schools that have had the effect of giving all involved a safe and private experience. This quiet accommodation is far preferable to a more heavy-handed and inflexible approach.

Finally, we observe that gender dysphoria is real and is not just a lifestyle choice. Children and adolescents attempting to find a positive path forward in a situation not of their choosing should not be treated as offenders against public social norms, but should be protected as the valuable and vulnerable young people that they are.

The League of Women Voters of South Carolina asks that you do not forward this bill with a favorable recommendation.

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