



Written by [Raven Clabough](#) on May 5, 2016

DOJ Claims N.C. Transgender Bill Violates Civil Rights Laws

The U.S. Department of Justice has weighed in on the North Carolina transgender bill, claiming it violates civil rights laws and threatening to cut federal funds to the state if it did not abandon the measure.

Under North Carolina's law, transgender individuals are asked to use public restrooms that correspond to the sex with which they were born, not with which they identify. North Carolina Governor Pat McCrory has defended the law as "very common-sense," but the LGBTQ community claims the law is discriminatory.



This week, Justice Department lawyer Vanita Gupta sent a letter to Governor McCrory, indicating that he and the state of North Carolina are in violation of civil rights laws.

As noted by the *New York Times*, former DOJ Attorney General Eric Holder directed the Justice Department to include gender identity, which includes transgender status, as a basis for discrimination claims in December 2014.

The Equal Opportunity Employment Commission affirmed this change by determining last year that "equal access to restrooms is a significant, basic condition of employment" and that efforts to deny restroom access to transgender individuals amounts to discrimination. "The State is engaging in a pattern or practice of discrimination against transgender state employees and both you, in your official capacity, and the state are engaging in a pattern or practice of resistance" of their rights, she writes.

ABC News reports that Gupta also informed the 17-campus University of North Carolina system that the transgender law violates Title IX of the Civil Rights Act prohibiting discrimination in education based on sex.

However, [constitution.com pointed out](#) the federal argument is based upon logical quicksand because to prove that a state is violating laws (really edicts) about gender (really one's biological sex, people don't have a gender; only words do), people must first be able to solidly define gender:

Title VII of the Civil Rights Act states that a person cannot be discriminated against by an employer on the basis of sex, race, color, national origin, or religion. So this means that the DOJ is applying this to gender.

But, this would mean that there is a definition of gender. If there is a definition, then we should be able to determine a person's gender. We would have to determine if that was the basis for the discrimination.

The trouble this will cause for the DOJ, many who suffer from Gender dysfunction have not decided which gender they are yet. The only real test would be physical. If this is the test, then NC is in perfect compliance with the law.



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The DOJ gave Governor McCrory and University of North Carolina President Margaret Spellings until Monday to “remedy these violations.”

According to the *New York Times*, an official with the Justice Department claims that the DOJ has numerous tools at its disposal to compel North Carolina to comply, including denying federal funds.

In response to the DOJ, Governor McCrory released a statement that provides little insight into the state’s next step. “The right and expectation of privacy in one of the most private areas of our personal lives is now in jeopardy. We will be reviewing to determine the next steps,” he stated.

McCrory did observe, however, that the Department of Justice’s intrusion takes the issue from a state matter to a national one. “This is no longer just a [North Carolina](#) issue, because this conclusion by the Department of Justice impacts every state,” McCrory said.

ABC News reports that the Justice Department has already been asked to intervene and block the execution of Mississippi’s House Bill 1523, which states that government and business employees can deny services if offering those services asks them to violate their own religious beliefs that marriage should be between a man and a woman and that gender is defined biologically.

But elsewhere in the country, others are showing their support for laws in which LGBTQ individuals are being asked to utilize facilities that correspond to their biological sex.

In Illinois, for example, the *New York Times* reports that a group called Students and Parents for Privacy filed a lawsuit against the Department of Education, the Justice Department, as well as Attorney General Loretta Lynch and school directors of Township High School in Palatine, the state’s largest high-school district, demanding that the district stop the practice of “forcing 14- to 17-year-old girls to use locker rooms and restrooms with biological males.”

And the increasing popularity of the boycott against Target reveals that a large number of Americans remain opposed to transgender policies that permit individuals to elect which facilities they will use. Over one million people are now participating in the boycott, which was launched approximately one week ago by the American Family Association after Target announced that it would permit men who identify as women to use women’s bathrooms and fitting rooms .

Supporters of the North Carolina measure view the government’s actions as significant overreach in order to push a radical agenda. North Carolina’s House Speaker Tim Moore, who helped pass the law in March, contends, “Basic concepts — common sense about privacy and expectations of privacy — are getting thrown out the window by what the Obama administration is trying to do in this.”

When House Bill 2 was signed in March, it included provisions that barred local governments from extending civil rights protections to gay and transgender individuals and mandated that individuals use bathrooms based on the gender that appears on their birth certificates.

However, threats from major companies such as Deutsche Bank and PayPal Holdings to discontinue plans to expand operations within the state prompted Governor McCrory to sign an executive order that establishes protections for state employees from discrimination based on sexual orientation and gender identity, and calls on legislators to reinstate the right to sue for discrimination. The executive order did not, however, address the provision that requires people to use the bathroom based on the gender with which they were born, though the bathroom provision is considered by critics to be the most controversial portion of the law.

“I have come to the conclusion that there is a great deal of misinformation, misinterpretation,



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confusion, a lot of passion and frankly, selective outrage and hypocrisy, especially against the great state of North Carolina,” McCrory said in a statement released after the executive order was signed, adding, “Based upon this feedback, I am taking action to affirm and improve the state’s commitment to privacy and equality.”



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