

2023 HOUSE JUDICIARY

HB 1333

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1333
1/23/2023

Relating to state pre-emption of local laws regulating obscenity; and to provide a penalty

Chairman Klemin opened the hearing on HB 1333 at 9:00 AM

Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. VanWinkle,. Absent: Rep. Schneider, Rep. Vetter

Discussion Topics:

- Cabaret performances
- Age limit for attendance
- Protecting children.

Representative Prichard, ND Representative, Introduced the bill. Testimony (#14996)

Mark Jorritsma, ND Family Alliance: Testimony (#14914)

Tracy Potter, Resident of Mandan, ND (#15440)

Aeon Axiom Carlson Minnesota Resident: Testimony (#15279)

Hearing closed at 9:30 AM.

Representative Olson moved to amend 23.0375.02001

Seconded by Representative Satrom

Roll call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	AB
Representative Lori VanWinkle	Y
Representative Steve Vetter	AB

Motion carried 11-0-2

Representative Henderson moved a DO PASS as amended.

Representative VanWinkle Seconded

Roll call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	N
Representative Bernie Satrom	Y
Representative Mary Schneider	AB
Representative Lori VanWinkle	Y
Representative Steve Vetter	AB

Motion carried 10-1-2

Bill carrier Representative VanWinkle

Additional written testimony:

- Jane Hirst, ND resident (#14801)
- Naomi Tabassum, ND Resident (#14845)
- Ellery Dykeman, ND resident (#14910)
- Janet Anderson, ND Resident (#14922)
- Kristie Miller, ND Resident (#14924)
- Amber Vibeto, ND Resident (#14933)
- Francis Galbraith, ND Resident (#14974)
- Emily Coler Hanson, (#14983)
- Sarah Galbraith, ND Resident (#14984)
- Nathan Brown, ND Resident (14991)
- Michelle Webber, Pastor (#15001)
- Rev. Grace Morton, ND Resident (#15017)
- Megan Degenstein, Phd.(#15024)
- Claire Gaddie, ND Resident (#15041)
- Michael Southam, ND Resident (#15065)
- Tim Baumann, ND Resident (#15091)
- Kristen Nelson, ND Resident (#15109)
- Amalia Dillin, ND Resident (#15111)

- Sydney Glende, LPCC, (#15129)
- Bree Langemo, ND Resident (#15130)
- Dan Sturgill, ND Resident (#15140)
- Janet Mathistad, ND Resident (#15164)
- Faye Seidler, ND Resident (#15184)
- Janet Fisher, ND Resident (#15191)
- Maura Ferguson, ND Resident (#15210)
- Charles Vondal, ND Resident (#15243)
- Xanthe Dick, ND Resident (#15252)
- Gretchen Deeg, ND Resident (#15257)
- Jodi Plecity, ND Resident (#15270)
- Kara Gloe, Mental Health Therapist (#15274)
- Olivia Data, ND Resident (#15299)
- Taylor Lavoie, Occupational Therapist (#15311)
- Joseph Larson, Pastor of St. Mark's Lutheran Church (#15336)
- Benjamin Schirrick, ND Resident (#15340)

Meeting adjourned: 9:44 AM

Delores Shimek, Committee Clerk By: Leah Kuball

January 23, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1333

Page 1, line 10, remove "go-go dancers."

Page 1, line 11, after the second underscored comma insert "or"

Page 1, line 12, remove "or similar entertainers."

Page 1, line 18, replace "within the line of vision" with "in the presence"

Renumber accordingly

JA

1/23/23

REPORT OF STANDING COMMITTEE

HB 1333: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1333 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "go-go dancers."

Page 1, line 11, after the second underscored comma insert "or"

Page 1, line 12, remove "or similar entertainers."

Page 1, line 18, replace "within the line of vision" with "in the presence"

Renumber accordingly

2023 SENATE JUDICIARY

HB 1333

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1333
3/20/2023

A bill relating to restrictions on adult oriented performances; to state preemption of local laws regulating obscenity; and to provide a penalty.

2:38 PM Chairman Larson opened the meeting. Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger were present.

Discussion Topics:

- Child safety
- Cabaret performances
- Grooming
- Sexual content
- Drag shows

2:39 PM Representative Brandon Pritchard introduced the bill and testified. #25844

2:54 PM Jacob Thomsen, Policy Analyst, North Dakota Family Alliance, Legislative Action, testified in favor of the bill. #25850

2:58 PM Dustin Hagen testified in favor of the bill. #25957

3:06 PM Celeste McCash, Delegate, North Dakota Student Association, testified opposed to the bill. #25852

3:12 PM Caedmon Marx, Outreach Coordinator, Dakota Outright, spoke opposed to the bill.

3:17 PM Cardinal Red Bird testified in opposition to the bill. #25845

3:29 PM, Cody Schuler, ACLU of North Dakota, testified in opposition of the bill. #25958

3:44 PM Christina Sambor, testified opposed to the bill #25965

Additional written testimony:

Grace Deal #25940

Janet Anderson #25939

Leah Wozniak #25938

Kristin Nelson #25934

Gordon Greenstein #25931

Rynn Willgohs #25930

Stephen DeMarco #25927

Elizabewth Loos #25925

Barbara Dunn #25923

Jeffrey Trexler #25908

David Grogan #25892

Allison Rhodes #25885

Jacob Holter #25873

Cionda Holter #25871

Faye Seidler #25842

Shannon Krueger #25840

Jodi Plecity #25836

Parker Leigh #25830

Barry Nelson #25828

Kara Gloe #25825

Alannah Valenta #25818

Chelsea Diederich #25813

Kristie Miller #25800

Jane Pettinger #25788

David Horowitz #25768

Whitney Oxendahl #25757

Michael Southam #25751

4:06 PM Chairman Larson closed the public hearing.
Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1333
3/21/2023

A bill relating to restrictions on adult oriented performances; to state preemption of local laws regulating obscenity; and to provide a penalty
--

10:42 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger are present.

Discussion Topics:

- Amendments
- Subcommittee

10:43 AM The committee discusses proposed amendments. Chairman Larson created a subcommittee to work on amendments to the bill. Senators Sickler, Braunberger and Estenson will be on the subcommittee. Senator Sickler will be Chairman for the subcommittee.

10:49 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1333
3/27/2023
Subcommittee

A bill relating to restrictions on adult oriented performances; to state preemption of local laws regulating obscenity; and to provide a penalty
--

9:13 AM Chairman Sickler opened the meeting.

Chairman Sickler and Senators Estenson and Braunberger were present.

Discussion Topics:

- Amendments

Chairman Sickler discussed amendments. #26667, #26668

9:22 AM Senator Braunberger moved to recommend to the full committee that amendment LC 23.0375.03003 be adopted. Motion seconded by Senator Estenson.

9:22 AM Roll call vote was taken.

Senators	Vote
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y

Motion passes 3-0-0.

9:22 AM Chairman Sickler closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1333
3/27/2023

A bill relating to restrictions on adult oriented performances; to state preemption of local laws regulating obscenity; and to provide a penalty
--

9:42 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger are present.

Discussion Topics:

- Committee action
- Amendments

9:42 AM The subcommittee reported back to the full committee.

9:44 AM Senator Sickler moved to adopt amendment LC 23.0375.03003.
Motion is seconded by Senator Luick.

9:44 AM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

9:46 AM Senator Luick moved to Do Pass the bill as Amended.
Motion seconded by Senator Myrdal.

9:45 AM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

Senator Sickler will carry the bill.

Senate Judiciary Committee

HB 1333

03/27/23

Page 2

This bill does not affect workforce development.

9:46 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

NOTE: The committee reconsidered actions on April 3, 2023 at 3:39 PM.

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1333
4/3/2023

A bill relating to restrictions on adult oriented performances; to state preemption of local laws regulating obscenity; and to provide a penalty
--

3:49 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger were present.

Discussion Topics:

- Committee action
- Amendments

3:49 AM The committee has discussion on the bill and proposed amendments #27253, 27254.

3:55 PM Representative Prichard provided oral testimony.

4:04 PM Senator Myrdal moved to reconsider action the committee previously took on the bill. Motion is seconded by Senator Braunberger.

4:05 PM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

4:05 PM Christopher Joseph, Attorney, North Dakota Legislative Council, provided oral testimony.

4:09 PM Senator Myrdal moved to adopt amendment LC 23.0375.03003. Motion is seconded by Senator Estenson.

4:10 PM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

4:10 PM Senator Sickler moved to Do Pass the bill as Amended. Motion is seconded by Senator Braunberger.

4:10 PM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

Senator Sickler will carry the bill.

This bill does not affect workforce development.

4:10 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

March 24, 2023

DR
181
3-27-23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

Page 1, line 9, replace "adult cabaret" with "adult-oriented"

Page 1, line 9, remove "in a"

Page 1, remove lines 10 and 11

Page 1, line 12, replace "a prurient interest" with "that"

Page 1, line 12, after "consideration" insert ", is intended to appeal to a prurient interest and features:

a. The purposeful exposure, whether complete or partial, of:

(1) A human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or

(2) Prosthetic genitalia, breasts, or buttocks; or

b. Sexual conduct"

Page 1, line 14, replace "engages in" with "organizes"

Page 1, line 14, replace "adult cabaret" with "adult-oriented"

Page 1, line 17, remove "the adult cabaret performance is in the presence of an"

Page 1, line 18, replace "individual" with "individuals"

Page 1, line 18, after "eighteen" insert "are admitted or allowed"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1333, as engrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1333 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

In lieu of the amendments adopted by the Senate as printed on pages 1267 and 1268 of the Senate Journal, Engrossed House Bill No. 1333 is amended as follows:

Page 1, line 9, replace the underscored comma with ":

a."

Page 1, line 9, replace "adult cabaret" with "Adult-oriented"

Page 1, line 9, remove "in a"

Page 1, remove lines 10 and 11

Page 1, line 12, replace "a prurient interest" with "that"

Page 1, line 12, after "consideration" insert ", is intended to appeal to a prurient interest and features:

- (1) The purposeful exposure, whether complete or partial, of:
 - (a) A human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or
 - (b) Prosthetic genitalia, breasts, or buttocks; or
 - (2) Sexual conduct.
- b. "Public property" means real property in which a state agency or a political subdivision has an ownership interest"

Page 1, line 14, replace "engages in" with "organizes"

Page 1, line 14, replace "adult cabaret" with "adult-oriented"

Page 1, line 17, remove "In a location where the adult cabaret performance is in the presence of an"

Page 1, line 18, replace "individual under the age of eighteen" with "At a business establishment frequented by minors, or where minors are or may be invited as a part of the general public"

Renumber accordingly

2023 CONFERENCE COMMITTEE

HB 1333

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1333
4/10/2023

Conference Committee

Relating to state pre-emption of local laws regulating obscenity; and to provide a penalty

2:30 PM Chairman Karls opened the conference committee meeting.

Members present: Rep. Karls, Chairman; Rep. Roers Jones, Rep. VanWinkle
Senators present: Senator Sickler, Chairman; Senator Diane Larson and Senator Braunberger

Discussion Topics:

- Cabaret performances
- Protecting children
- Amendment

Rep. Karls discussed the original bill.
Senator Sickler: Testimony #27406

Senator Larson moved House accede to Senate amendments
Seconded by Senator Braunberger.

Roll Call vote: 6 Yes 0 No 0 Absent. Motion carried.
House Carrier: Rep. Karls
Senator Carrier: Senator Sickler

3:00 PM meeting adjourned.

Delores Shimek, Committee Clerk

REPORT OF CONFERENCE COMMITTEE

HB 1333, as engrossed: Your conference committee (Sens. Sickler, Larson, Braunberger and Reps. Karls, VanWinkle, Roers Jones) recommends that the **HOUSE ACCEDE** to the Senate amendments and place HB 1333 on the Seventh order.

Engrossed HB 1333 was placed on the Seventh order of business on the calendar.

TESTIMONY

HB 1333

House Judiciary Committee

I am writing in opposition to HB 1333 which appears to be a bill designed to protect minors from exposure to obscene adult-oriented performances. Since there is already a law in place which prohibits the promotion of obscenity to minors, this bill is not needed and the time it will take to go through the legislature is a waste of time and taxpayer's dollars. It appears that this bill is instead an attack on drag queens and family centered drag performances as they are listed alongside topless dancers, go-go dancers, exotic dancers and strippers. I can tell you that male or female impersonators can perform adult-oriented material, but can also be very family friendly performing songs from Disney or other favorite children's music. As the bill is written, it is difficult to determine whether a performance by the likes of Bob Hope, Robin Williams, Eddie Murphy, John Travolta, or Dustin Hoffman dressed up as a woman would be considered in violation of this bill. I ask you to give this bill a Do Not Pass recommendation.

Jane Hirst
Minot, ND

01/20/2023

HB 1333

Testimony in Opposition

Chairperson and Members of the Committee:

My name is Naomi Tabassum, and I am a resident in Fargo, ND. I have lived in Fargo since 2010, attended graduate school at NDSU, and own and operate a small business in Fargo. I am married, have two small children, and enjoy spending time in the community of Fargo as well as North Dakota at large.

I am a member of the LGBTQ+ community and enjoy engaging in my community events, which includes drag shows, featuring both drag kings and queens. I take offense to HB 1333 and strongly oppose it. To consider artistic performances at a drag show to be “prurient” in nature or “obscenity” is ignorant, absurd, and hateful. Drag shows are often family-friendly, and as a parent of a 1-year-old and 5-year-old, I happily take my children to drag shows. They are fun, creative, and in no way obscene. “Male or female impersonators” should not be included in a bill addressing nudity or “adult-oriented” entertainment. There is no nudity in drag shows. In fact, the performers are often wearing a lot more layers than usual. Think karaoke, but with more glitz and glam. It is harmless fun.

There is a strong push right now in this state to attack and criminalize people in the queer community. I hold you accountable to see the social and cultural attack the queer community is under by this bill and other bills focused on queer identities. We exist, and we are not going anywhere. Simply because we are different does not justify outlawing drag shows under the guise of “controlling obscenity”.

HB 1333

I speak in opposition to HB 1333. For the many reasons listed in other testimony for other bills targeting trans folks and others in the LGBTQIA+, this is yet another harmful bill that solves a problem that doesn't exist. Along with wasting the legislature's time, this bill is just another of in a long list that is based in fear of what people don't understand. There are 8 billion people in the world and not all of them will fit into the small, rigid boxes you try to create for them.

Here is my primary example of why this bill is just plain terrible. I sing in a men's community choir here in Minot that puts on a well-received Variety Show every year. Part of this show every year for the past many decades has included at least one man dressed in drag for part of this all-ages, family friendly show. To the best of my knowledge, it has never been a problem and has never corrupted anyone. It seems to me that this bill would make this, and other harmless shows like it, illegal.

Encourage the legislature to vote no against HB 1333 and the many others that hurt, discriminate against, and cause unnecessary harm against our LGBTQIA+ friends, family and fellow North Dakotans.

Rev. Ellery Dykeman



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony in Support of House Bill 1333

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
January 23, 2023

Chairman Klemin and honorable members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. We are submitting testimony in support of House Bill 1333 and respectfully request that you issue a “DO PASS” on this bill.

This bill seeks to protect North Dakota children, plain and simple. From what? From performances that are not age appropriate. Performances where the focus is to expose children to topics of sexuality for which they are not ready. These kids should be playing with Legos, making string art, and growing lima beans in wet paper towels, not tipping drag performers with cash as they writhe in front of them (see Attachment A for a still shot of this situation captured on video at a Dallas drag show).

Under this bill, what happens to these types of performances in non-public spaces or that are not in direct sight of children? Nothing - that is not the purpose of this bill – no matter how much we may disagree with the values implicit in the shows and whether to attend them. Further, it is not a slippery slope either, as some might argue. Strip clubs, adult performance venues, and the like have been around virtually forever. It is the *pushing/expanding* of sexualized performances to *public* exposure that has precipitated this bill, not the private, existing ones.

North Dakota lawmakers are not prone to put laws in place for things that are not already a problem in their state, and there are often sensible reasons for this. But in this case, it has happened. On June 18, 2022, there was a drag queen show on the grounds of the Capitol, right here, called *Pride on the North Dakota Capitol Lawn* (there were similar events in previous years). It featured drag queens, sidewalk art, music, and face painting. Further, they explicitly stated, “Event is FREE and All Ages Welcome!”.¹ Surprised? Nearly every North Dakotan I’ve told about this is shocked and appalled. This is obviously not merely aimed at adults, but clearly also at children, with the goal of grooming them and numbing them to this over-sexualization.

¹ <https://dakotaoutright.org/capital-pride/>



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

As one article on the subject succinctly put it, “A child is not a prop to be used for political statements or for showing off that one is open-minded and “hip.”²

You may hear testimony today about freedom of expression, homophobia, and the like, but it really comes down to this. On that sunny June day last year, would you have been OK with your child or grandchild standing and watching that performance on the Capitol lawn? That’s what this is about.

Those are some of the reasons that we at North Dakota Family Alliance Legislative Action respectfully request that you pass HB 1333 out of committee with a “DO PASS” recommendation.

Thank you for allowing me to testify, and I’d now be happy to stand for any questions

² <https://www.washingtonexaminer.com/restoring-america/community-family/why-drag-queen-performances-are-not-appropriate-for-children>

Attachment A: Drag Show in Dallas, Texas



Source: <https://www.nbcnews.com/nbc-out/out-politics-and-policy/texas-lawmaker-proposes-ban-minors-watching-drag-shows-rcna32183>

January 21, 2023

Chairman Klemin and members of the House Judiciary Committee:

I am writing you to encourage you to oppose House Bill 1333.

I believe you should vote "Do Not Pass" on this bill primarily because it appears to be a "solution" in search of a problem. There currently are not many adult-oriented performances or "adult cabaret performances" in North Dakota. This bill, which is a not-so veiled attempt to restrict drag performances, is unnecessary. The majority of such performances are available for those who are legally able to drink.

Additionally, like so many other bills your committee is seeing, HB 1333 is too vague to be enacted or enforced. Are those people who are so focused on what they call "family values" (I must ask: "WHO's family values are these?" because they certainly are not mine) going to stand outside strip clubs and drag shows to card attendees? While I'd love them to do this because a.) photos of Moms for Liberty at drag shows would be amazing social media fodder AND b.) close-minded bigots would get to see the compassion, kindness, love, and welcoming environment these events curate, it seems unlikely.

Also, who is this bill aimed at: the performers? the audience? both? Will this committee determine if an event "appeals to a prurient interest?" If so, I can't wait to read that list of questions you'll be asking...

Simply put: please stop wasting your own time and the time of your colleagues as well as my money. Instead, could you please look into why the state is months behind in providing housing assistance checks to our residents.

Sincerely,

Janet B. Anderson

Burlington, ND

HB #1333

Senator Estenson and Representatives: Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, Ruby, Tveit, and VanWinkle

68th Legislative Session

House Bill #1333

I am writing this testimony in opposition to HB #1333. The Legislators who drafted HB #1333 have clearly never been to a Drag Show and do not understand the people who appear on stage nor do these same Legislators even consider the World's history of theater.

How many of you even attended a Drag Show? I can honestly say I have attended Drag Shows and let me tell you what you would have observed had you attended this event with an open mind and approached the show with no preconceived judgements.

What you would have witnessed by attending a Drag Show is individuals who take their art and craft very seriously. These people do their act just as any actor on a Broadway stage or those in films. These individuals rehearse their acts, they wear costumes and do their makeup just like those who perform in New York or in LA.

Drag Shows are not perverse or obscene. In fact, if you would look back in history you would see that in 17th Century during the Shakespearean times, men often dressed and played female roles. Back in this era, women were not allowed to perform in theater, so men had to play the female role in plays. This was widely accepted and not deemed unusual or something to be concerned about. The term "Drag" is derived from the fact that men played and dressed as women during this time but this also described how the female costume would "drag" across the floor. Hence, that is how the term dressing drag came about. Men in this era also wore what we call tights now. Times have changed and with time changing so has clothing however more notable is the attitude and insecurity of those who regard men dressing in female costumes as unusual and highbrow.

I personally watched individuals get on stage and sing, dance, tell jokes and talk with those of us in the audience. The audience enjoyed the performances and the actors, in turn, performed their hearts out. At the end of the show, everyone was clapping and standing on their feet as all the performers came back on stage to close the show. There wasn't anything harmful or inappropriate about the show I attended, and I also took my daughter.

I wanted my daughter to see this performance and have her experience a show that highlighted people who dressed in drag. I wanted my daughter to see that there isn't anything wrong with the

performances or the performers. Unfortunately, what is wrong is the attitude and mindset of those who judge people who make a living dressing up and performing as the opposite sex. I believe in keeping an open mind, experiencing different cultures and events that are new and different to me. I believe it's when a person experiences something new and different that there is learning being done and we all know knowledge is power. The Legislators have no right thinking they can tell a parent that they can't take their own child to a Drag Show which is theater. The Legislators assumptions that they know what's best for the citizens of North Dakota. It's these same Legislators that have no firsthand experience at such a show or that they believe children shouldn't be exposed to shows that the child's parent deems acceptable. There is nothing harming children here and what is seen on stage is also seen on TV, in movies, on print Ads and even in games played on gaming devices every day in North Dakota.

Why do the Legislators believe they can keep people from earning a living doing an honest day's work? Drag Shows are no different than the plays that get performed every year in North Dakota. The only difference is that Legislators are focusing in on who might the actors be and who might attend the shows. Well, heterosexuals attend Drag Shows along with those who identify as being in the LGBTQAI community. Men and women who identify as being straight attend these shows and enjoy them. This is theater. The actors are professionals. There is no reason to be afraid of Drag Shows and those who perform in the shows. I also do not believe that the Legislators have a need to eliminate a show that many citizens of North Dakota like to attend. These shows are for entertainment purposes and to go to the extreme to eliminate them or regulate them smacks of a group of people who think they are the social consciousness for the state but they are not. If you do not like Drag Shows, then don't attend them but eliminating them altogether because of your lack of appreciation for the shows that is wrong and no one should eliminate anything because of a group who remains to be ignorant and close minded.

Being different is what makes this world interesting and what God intended. If God wanted us all to like the same thing and have no different interest then this World would have a lot less choice in books, movies, songs, poetry, plays, etc. Differences in this world should be applauded and accepted. It's these differences that gave us Vaudeville in the 20th Century and we saw movies like "Some Like it Hot" a movie classic with Jack Lemon and Tony Curtis dressing in Drag. Flip Wilson dressed as Geraldine Jones on TV, Monty Python dressed in Drag and even Curly from the Three Stooges dressed in Drag. Even cartoon characters such as Bugs Bunny from Looney Toons dress in Drag.

Let people earn a living. This is NOT harming anyone. If you don't want to see a Drag Show then don't attend one but do not take away a form of entertainment that many do enjoy. Once you start playing entertainment police where does it stop? Books, movies, poetry, songs, magazines, sports? The citizens of North Dakota can decide for themselves what entertainment they want to watch and take their children too. Legislators should focus on running the state and not what its citizens watch.

Thank you, Kristie Miller

Members of the House Judiciary Committee,

My name is Amber Vibeto and I reside in District 3. I am asking that you please render a DO PASS on House Bill 1333.

- There is a widespread attempt to normalize so-called ‘family friendly drag shows’ across the country, including right here in North Dakota. Minors are being exposed to adult entertainment featuring provocative performers with sexualized names and costumes and, in many cases, encouraged to hand tips to the performers.
- Exposing minors to drag queens as a way to teach kids to be kind and inclusive is merely a marketing strategy by activists. Instead, introducing children to drag is about teaching kids how to “live queerly”. There is no innocent, non-predatory reason for a man to dress as a woman in a sexually provocative costume and dance in front of children and teens. We must guard our youth’s innocence and protect them from this sexual and ideological grooming.

This eye-opening video explains why this bill is needed.



Thank you for your consideration of this matter and for your service to the state of North Dakota.

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to House Bill 1333. I ask that you give this bill a Do Not Pass.

How does this bill serve our state? I feel this is not only prejudicial to ALL residents of this state but also a waste of resources and our legislator's time. Any business within this state should be able to make business decisions for themselves without political intervention but also it alienates residents of this state. What purpose does it serve to place a further burden on small and local businesses? This is just an attempt by a select few to impose a personnel belief on residence of this state.

These performances have raised money for countless charities and local communities. These performances have been wrongly portrayed as adult entertainment and inappropriate for young audiences. These all-ages events are presented in an appropriate and age appropriate performances. These are not adult oriented performances and are presented as such. So what have these shows presented to children? .0What they have in fact done is shown the younger generations that all are welcome and not judged by how they look, feel or present themselves. They have also helped many local and small business give back to their communities and shown that they are inclusive and also do not judge.

Instead of wasting time on discriminatory bills such as this why not present legislation that would help those in need such as small business assistance, better mental health programs, better drug treatment programs, better health care programs, Domestic Violence laws and programs. All this bill is going to do is continue to further divide people of this state, alienate marginalized groups and make it more difficult for businesses to operate.

Thank you for your time, consideration and service to our state.

Best Regards,

Signed

Francis M. Galbraith

I urge you to oppose HB 1333.

The language of this bill is problematic.

Adult performances are already well regulated by existing laws.

The inclusion of drag performers makes the assumption that it is always for prurient interest. How will this be distinguished from a Halloween costume? Or a female teacher dressing up as Albert Einstein for science day at school? Or a transgender person dressing as their identified gender? The way this bill is written, these examples could potentially be a class A misdemeanor.

I strongly urge you to oppose HB 1333.

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333 . I ask that you give this bill a Do Not Pass.

The reason for this is as a parent, entertainer, show producer, community member and consumer. I feel this is not only against the freedom of the individual but also against the freedoms of a business owner. There are many events that are all ages and inclusive that are being presented from businesses as a community gathering but also an inclusive space especially for our LGBTQIA2S+ friends and family. If there are businesses that do not want to have these events at their establishment that is up to them and how they want to proceed forward. Putting a Drag King or Drag Queen in the same sentence as adult entertainment (examples given were topless dancers, go - go dancers, exotic dancers and strippers) is not only ignorant but also very telling of what these supporters think of our community. To say that we have a right to go to established adult entertainment businesses and then turn around and lump all ages events into those businesses is like saying that bugs bunny in drag is the equivalent of watching an adult film with sexual content and nudity. As a producer I am constantly aware of the changing climate of our youth and parents in that there are more places saying what is wrong with our youth that what is right. What is right is that a thriving youth is 40% more successful in their lives and into to adulthood the more they are accepted. The number one export of North Dakota is our youth. The most wasted resource we have in North Dakota is our youth. Legislation constantly targets the youth they do not understand nor do they take the time to actually meet with them. These are human children and the basis of those two words themselves means that they have a right to life, liberty and happiness. To the pursuit of their dreams and the ability to thrive.

Instead of focusing on our childcare needs, mental health and addiction crisis in North Dakota we are now using tax dollars to have adults sit around and write up legislation for something that is already widely accepted around the world. The acceptance is for youth to be supported and affirmed to become the adults we all need to continue our communal society. Being LGBTQIA2S+ is as controversial to these supporters as interracial marriage was at one time. My own mother remembers segregation in North Dakota schools because she grew up in it. My own grandmother and mother have been present with me for the first Gay Pride Parade in Fargo, ND up to this last year which was one of the biggest parades in this state. These events alone bring commerce and residents to our state and they stay because they feel they belong. Does our legislation really need to continue to prove to these families that they are not welcome?

Thank you for your time, consideration, and service to our state

Best regards,

Sarah Galbraith

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333 . I strongly ask that you give this bill a Do Not Pass. This bill does little to advance any laws, as we already have bills about such things that are more than effective enough at subjects, such as indecent exposure and the like. It only seeks to strangle consenting adults performing for one another. This bill specifically calls out male and female posing performers but all it is is a shallow attempt to ban Drag shows at venues that allow them to do it (Often for charity purposes.) All this bill does is to further target consenting adults engaged in consenting activities. Because if its an event I don't wanna see? I just don't go to it so perhaps the people pushing this bill should just not go to these events if they do not like them. All of those activities listed are usually ticket and age checked at the door anyway.

The bill goes further to indicate “provide entertainment that appeals to a prurient interest, or similar entertainers, regardless of whether or not performed for consideration.” I hope everyone understands what this means wholly in full context? Who decides if it's Prurient interests, because that seems ripe for abuse to me and used to pressure minorities. Did you know Women in pants were considered cross dressing not that long ago? So if any of the ladies of the legislation got a bill passed and danced in their seat a happy little dance is that illegal? Its televised kids could see it and a lewd display of power one might argue. You know men posing as women on stage has been a thing since before shakespeare's time? So now a theater, short on performers for a show, can't let their actors play other roles that don't fit their gender? The author of the bill may think the Prurient clause is a nice safe guard but it's not because again, who determines if it's Prurient interests? This law is solely to target, what the bill writers assume is, 'sexualized' behavior? This is in fact a poorly worded hate bill with far reaching consequences. There are Burlesque shows behind closed doors (in convention areas) age checked at the door that raise money for charity that are targeted by this. Theater performances shut down for fear of someone in the audience deciding a scene was a little too close to sexual because two actors have to perform a kiss. It wasn't intended as a Prurient display but the bill clearly states whether performed for consideration or not. Where does the bill end or start to even offer anything but oppression? All because the authors of the bill are worried about the LGBTQ+ community? Is their lifes really so sad they have to worry about what other consenting adults do around other adults? A god fearing republican lady in a suit on her way to Washington D.C. kisses her husband for just a moment too long in the airport because she won't see him for a few weeks... Or in another wording 'A crossdressing woman passionately kissing her husband in a public area where there COULD have been a kid! How disgusting and totally a Class C felony.' And many more examples I could waste all day laying out....

So all I can say in conclusion is this. This bill is hurtful, and does nothing to advance law but oppress people and give too much power to people who would abuse it. It targets an event that is and has been used plenty for charity purposes. It makes illegal activities that have been widely accepted for longer then our nation has existed. Criminalizes Normal and safe behavior. Please please please take these into consideration and vote Do Not Pass.

-Nathan Brown 1/22/23



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Brandon Prichard

District 8
8600 Creekside Drive
Bismarck, ND 58504-3952
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COMMITTEES:

Human Services
Agriculture

House Bill 1333 House Judiciary Committee Representative Klemin, Chairman January 23, 2023

Chairman Klemin and members of the House Judiciary Committee,

My name is Rep. Brandon Prichard and I represent District 8 which covers all of Emmons County, rural and suburban portions of Burleigh County, and Wilton which is in McLean County. I am here to testify in support of HB 1333 which would prohibit children and minors from attending exotic and inappropriate in-person performances, called “adult cabaret performances.” North Dakota children should not be allowed into strip shows, in-person displays of exotic dancing, prurient performances by straight or gay performers, or any display in a similar, hypersexualized fashion.

HB 1333 would simply make it a criminal penalty to allow a minor to attend an adult cabaret performance with the first offense carrying a maximum of a Class A misdemeanor and the second offense carrying a maximum of a class C felony. If you are wondering the frequency of these types of events in North Dakota, you may be surprised to learn that events with a clear prurient interest occur often. One of the most notable examples is the Scarlet Vision Productions All-Ages Cabaret Show in Fargo, ND. These events have occurred throughout the last several years in Fargo with the goal of encouraging children to attend and participate in explicit actions.¹ Meanwhile, an annual cabaret show in Bismarck called “Just a Brunch for Kings and Queens” only increased its age limit from all-ages to 13+ after concerned constituents called the vendor and wrote letters to the editor in the Bismarck Tribune. This show was particularly problematic because it allowed a male performer under the age of 18 to dress in women’s clothing and dance in a hypersexualized manner.

In April of 2022, I attempted to shut down the all-ages cabaret show in Bismarck unless the group organizing the cabaret performance increased the age limit to 18 years and older. According to CC [12.1-27-02](#) and [12.1-27-03](#), it is a class C felony “for a person, knowing of its character, to recklessly promote to a minor any material or performance which is harmful to minors, or to admit a minor to premises where a performance harmful to minors is exhibited or takes place.” The definition of “harmful to minors” means “that quality of any description or representation, in whatever form of sexual conduct or sexual excitement, when such description or representation (1) considered as a whole, appeals to the prurient sexual interest of minors; (2) Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and (3) Considered as a whole, lacks serious literary, artistic, political, or scientific

¹ [Despite backlash, all-ages drag show in Fargo draws parents and kids - InForum | Fargo, Moorhead and West Fargo news, weather and sports](#)

value for minors." Despite a seemingly clear condemnation of cabaret shows, no criminal charges were pursued. These types of performances continue in Bismarck, Fargo, and other cities in North Dakota.

Therefore, this bill serves as clarification language that cabaret performances are meant for adults, not minors. There are several things I would suggest cleaning up in the bill before the committee votes. First, while the terms "cabaret," "topless dancer," "go-go dancer," "exotic dancer," "stripper," and "male or female impersonator" may seem self-explanatory, it would be beneficial for the committee to formally define these terms. Second, the term "similar entertainment" in line 12 could be clarified if the committee believes the word choice is too broad. Third, if the committee believes lines 18-19 is too broad, some minor adjustments may be reasonable. In the drafting phase, legislative council believed that "within the line of vision of an individual under the age of eighteen" was acceptable. The goal with subsection b is to stop minors from attending the performances will making the law the least restrictive means to achieving the legitimate government interest. Fourth, it may be advantageous to clarify that the penalty will only apply to the business organizing the event, not the dancers unless they are business partners in the operation. Contractors and employees should receive general protection from their employer's wrongdoing. If a committee member would be interested in working on these amendments, I would be willing to assist in the process. The committee may also decide to leave the language unchanged if they believe the amendments would not provide a benefit.

I encourage the Judiciary Committee to support the effort to protect the innocent minds of children by clarifying that cabaret performances are only for adults. I respectfully ask for the committee to support HB 1333 by giving the bill a "Do Pass" recommendation.

Appendix A

Child Hands Cash to Cabaret Performer During an Explicit Dance in Bismarck Show



Appendix B

Children Giving Money to a Cabaret Performer on the Capitol Grounds



Appendix C

Fargo Cabaret Performer Hugs Child Before Dancing Seductively and Thrusting the Air



Host and performer Tequila Mockingbird lets a young crowd member say a few words about being yourself during the all-ages "Can't Drag Us Down" drag show on July 16, 2022, outside the Elks Lodge in Fargo.
Alyssa Goelzer/The Forum

Explicit and seductive dancing is found in the video attached to the article (video time 1:12):

[Despite backlash, all-ages drag show in Fargo draws parents and kids - InForum | Fargo, Moorhead and West Fargo news, weather and sports](#)

Appendix D

Scarlet Vision Production Encourages "All Ages" to Attend the Performance

SCARLET VISION PRODUCTIONS PRESENTS...

Can't Drag Us Down!

7/16 • FARGO ELKS PARKING LOT
TICKET SALES START @7PM • SHOWTIME @8PM
\$15 FOR ADULTS • \$10 FOR 18 AND UNDER
ALL AGES

L. HIPSTER **TEQUILA MOCKINGBIRD** **JUST JEFF** **BJ ARMANI**

JARETH IDOL **JESSIKA FROM THE VOLLEYBALL TEAM** **MISS KITTY** **ASHER ALEXANDER**

CARLITA ASADA **MIKA SUPREME** **BROWN SHUGA**

Appendix E

Minor Between 15-17 Years Old Dances in Cabaret Performance in Bismarck

(Redacted in Public Version to Protect Minor's Identity)

Appendix F

Cross-Dressing Performer Grooms 8-Year-Old Boy into Cabaret Performances



Video, view 3:40-4:25:

[Meet the 8-Year-Old Boy Who Transforms Into a Drag Queen Named Lactatia - YouTube](#)

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333 . I ask that you give this bill a Do Not Pass.

The reason for this is that I am the pastor of a church some of whose members reside in North Dakota, including people who have or will perform in shows known as “drag” shows. These performances do not match the categories of other types of shows listed in HB1333. I believe that drag shows have been misclassified in HB1333, along with topless dancers and strippers. While there might occasionally be overlap between these types of performances, there are plenty of “male or female impersonators” whose artistic expression is not sexually suggestive or revealing in the way that topless dancers and strippers are. “Go-go dancers,” likewise, do not necessarily engage in anything sexually suggestive or revealing.

By including these categories alongside forms of entertainment that are explicitly sexual, this bill will have an impact that is far reaching and limiting. It also sends a particular message to drag performers, even those who have made it a point to make their performances appropriate for all ages. Why would we spend state and local resources curtailing this harmless entertainment?

Thank you for your time, consideration, and service to our state

Best regards,

Rev. Michelle Webber

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to House Bill 1333. I ask that you give this bill a Do Not Pass.

As pastor of People's United Church of Christ, this will negatively affect our outreach to our community. Persons in the drag community are often a part of the LGBTQ community. People's UCC has a particular call to be in ministry with that community and to make the church a welcoming and affirming place for all people who seek a relationship with God. We also seek to engage the wider community to create acceptance for people regardless of sexual orientation or gender identity.

To that end, we sponsor an annual all-ages Gospel Drag Festival.. This is the major fundraiser for our congregation each year. More importantly, we show the love of God to adult members of the LGBTQ community and help children to see that God's love is available to everyone. For children, teens, and even adults who have felt rejected by the church get to experience a faith community that loves them.

At last year's festival, one of the children was in awe of the dancing of the performers. There was one performer who was well over six feet tall, and at first their height was a little intimidating to the child. But as they watched and saw the enthusiasm with which that entertainer performed, they said to their parent, "Mommy, she's so brave. She's on those high heels and is dancing for us!"

There were all types of families present, some families that have felt cut off from the church, yet that evening they felt that they had found new community with God's people.

We look forward to this year's Drag Gospel Festival to be held don Tuesday, February 21. That is Mardi Gras or Fat Tuesday. The next day is Ash Wednesday, the beginning of Lent. At the end of the Festival, we will move into a liturgy of imposing Glitter + Ash as we begin the Lenten journey together.

This year the event will be in Moorhead, MN. The reason is two-fold. We are currently worshipping in the chapel at First Congregational United Church of Christ and they have welcomed this event to their fellowship all. But we also do not feel safe in having this joyous Christian celebration in the state of North Dakota where the majority of our parishioners live.

Please embrace the legendary welcome that North Dakota should be known for and recommend that House Bill 1333 as a "Do Not Pass."

Thank you for your time, consideration, and service to our state

Best regards,

I strongly oppose this bill. There is no evidence that drag queens are harmful to anyone, and it is abhorrent that the ND legislature is considering making this practice illegal. The fact that this bill is being considered is embarrassing for our state. It shows such ignorance of factual information and the extreme prejudice of our lawmakers.

Megan Degenstein, Ph.D.
Licensed Professional Clinical Counselor

MY LETTER OPPOSING HB 1333

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333. I ask that you give this bill a Do Not Pass.

As a parent, community member, LGBTQIA2S+ person, and consumer, I feel this is not only against the freedom of the individual but also against the freedom of a business owner. There are many events that are all ages and inclusive that are being presented from businesses as a community gathering but also an inclusive space especially for our LGBTQIA2S+ friends and family. If there are businesses that do not want to have these events at their establishment that is up to them and how they want to proceed forward.

I was shocked that drag performers were included in the same category as exotic dancers/strippers etc. where nudity is involved. It is wrong to assume this grouping and shows that whomever penned this legislation does not understand the issue they are trying to oppose.

This legislation is a waste of time and harmful to the community. Some damage has already been done as it is causing fear and misunderstanding. It is yet more legislation that is trying to restrict and control myself and my peers. There are actual issues that need to be tended to in North Dakota that DO impact the welfare of children, lets focus on those.

As a transgender person I find this and other upcoming legislation very disturbing, ignorant, and controlling in nature. I feel like being who I am is controversial. Sadly many people still see the LGBTQIA2S+ community as a group of misfits making immoral lifestyle choices. We are not. Despite all of the information and support available, and education, North Dakota is still living in the 50s or possibly earlier in terms of this issue and others. Only those invested in the demise of North Dakotas reputation (which isnt great anyway in regards to LGBTQIA2S+ people, maybe we should work on improving that?) and further restriction of our rights want to see this pass. This legislation is fear based and unwarranted.

Thank you for your time, consideration, and service to our state

Sincerely,

Claire Gaddie

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333. I ask that you give this bill a Do Not Pass.

I believe this bill is unnecessary infringement of the rights of business owners, performers, families, individuals and municipalities to determine what type of performances are appropriate. I feel this effort a waste of taxpayer dollars in an attempt to target and control an extremely small segment of entertainment. Entertainment which is widely accepted and celebrated across not only many communities in the US but abroad. It certainly raises the question "What is next on the agenda?"

I think legislative time and effort should be focused on positive needs for our state; namely hunger, addiction, homelessness, child care issues, adequate worker importation and retention, positive education environments, effective management of our natural resources, tourism, taxes, infrastructure and more. No further legislation is necessary to try to control morality at this time in my opinion.

Thank you for your time and consideration of my position. Thank you also for your dedicated service to our great state.

Best Regards,

Michael Southam

January 22, 2023

To Whom It May Concern,

My name is Tim Baumann and I live at 1308 35th Ave. SW in Minot. I am writing today to express my opposition to HB 1333. I believe that public institutions like universities should be able to determine what types of performances happen in their facilities without the state government making decisions for them or censoring conversations or actions.

Respectfully Submitted,

Tim Baumann

1308 35th Ave. SW

Minot, ND 58701

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333 . I ask that you give this bill a Do Not Pass.

Not only am I concerned about the unintended consequences of this bill, but also the shuttering of one's personal freedoms. Are we to ban adults from dressing up for Halloween or costume parties? What about theatre performances that traditionally have males in female rolls? Edna Turnblad in Hairspray; Peter, in Peter Pan; literally any play by Shakespeare; Dustin Hoffman in Tootsie; and the list goes on and on.

I am curious about what a law like this could do to the economy of North Dakota if major theatre and music productions decide they would rather not go to a state where they can potentially be fined for their craft. Theatre and music productions, like drag shows, exist to entertain crowds. They want people to feel happy, and included while creating an atmosphere that everyone is welcome to be who they are. That is the North Dakota I want to live in, not the one this 2023 legislature is creating.

Thank you for your time, consideration, and service to our state:

Best regards,

Kristin Nelson

Founder of Project RAI

(Rainbows are Inclusive)

In 15th century France, a woman named Joan of Arc was sentenced to death and burned at the stake. Her crime--the charge which permitted this outrageous sentencing--was Cross-Dressing.

When we seek to codify and legislate what DRESS is permissible by people based upon their assumed or "biological" gender, we are participating in a long and violent tradition that has been used to violate basic rights of self-expression (to say nothing of practicality) of ALL people, regardless of their gender. This bill, obviously and outrageously, seeks to target trans and LGBTQIA individuals, to mandate their very existence in public as obscene. That in and of itself should be reason enough to oppose it. Because trans individuals, and ANYONE who chooses to dress in drag for ANY REASON AT ALL be it performance or just delight, deserve the same rights as the rest of us to express themselves through their clothing and apparel. To use clothing as a means to engage with art and culture, to share their joy with their community without harassment, bullying, or abuse.

In Elizabethan England, ONLY men were allowed to act on the stage. ALL parts in EVERY play (Shakespeare! Marlow! The Greeks!) were performed exclusively and solely by men and boys, including the parts of characters who were written as women. Those actors dressed in drag, publicly, EVERY PERFORMANCE, and their art was enjoyed by everyone of every age and class, royalty, nobility, and peasant alike. Were those performances then, OBSCENE? Are we really, in the year 2023, MORE puritan as a society than ELIZABETHAN ENGLAND in the 16th Century?

As an Adult Cis het Woman, when I wear a hooded sweatshirt (my most favorite item of clothing, which took YEARS of effort to track down and obtain, at no small expense) that presents in highly accurate detail the costuming of a male character from a movie I love, I am cross-dressing. I AM CROSS-DRESSING. Will you tell me that hooded sweatshirt on my obviously female-presenting body is OBSCENE? That I cannot appear in public, or in the eyeline of anyone under 18, wearing PANTS and a zip-up HOODED SWEATSHIRT which covers me fully from neck to toe?

Of course not, you're thinking. Of course this bill isn't meant to apply to me, a Cis Woman wearing pants and a Star Wars costume. But where in the bill does it specify that? Where does it say this legislation doesn't apply to any of us, choosing to express ourselves through our clothing choices? How will you determine who is and is not cross-dressing OBSCENELY in their daily life, going out with their friends? And HOW will you codify that? How will you stop any other person, high on the power they've been given to parse who is or is not performing their gender to the appropriate degree and NOT overstepping into the line of cross-dressing, publicly, from using the law you've created to attack me? Or your daughter? Or your wife? Your Scottish Husband who loves his ancestral dress? The patrons of the Renaissance faire attending in their utili-kilts? Your sister or brother? Your cousin, your aunt and uncle, your best friend of any gender who always looked pretty androgynous, who now has to worry every time they go out that they'll look too masculine in a dress to some jerk on the street and end up arrested because this bill was signed into law?

When you strip the rights of any people, you strip the rights from ALL people. You strip away the rights of your neighbors, your friends, and yourself. And if you think you're safe from this gender binary nonsense--I promise you, it's only a matter of time before, without ever intending it, these laws harm you or someone you love, as well.

Sixty-eighth
Legislative Assembly
of North Dakota

To whom it may concern,

I am writing this letter in opposition to the House bill #1333. The performances by drag queens is harmless to all, and to criminalize this is ridiculous, and bigoted.

To vote this bill in, also seems against amendment 1: freedom of speech, which is a principle that supports the freedom of a community or individual to convey their ideas and opinions without fear of censorship, retribution, or legal sanction.

If someone doesn't want to see the drag shows, fine- but if people choose to go, or bring their families, that is their own personal choice.

Thank you,

Sydney Glende, LPCC

As a mother of a transgender teen in North Dakota, I strongly oppose this bill as it has a wide range of interpretation. I believe parents should be able to make decisions for their children and have positive and healthy conversations about gender expression, especially in the case of drag shows. My son and I have both had positive experiences attending the FM Pride Youth Drag Show. Please do not support this legislation.

North Dakota needs to be known as a state that honors free speech. HB 1333 has an intent of protecting community members from unwanted exposure to lewd material - a concept that does have a place in our communities. However, including "male and female impersonators" in this legislation is too broad of a stroke to accomplish this goal. If this bill had been enacted during the 1600's, Shakespeare's plays (all actors being males at that time) would have been impermissible. If a community wanted to have a live re-enactment of the movie Mrs. Doubtfire (rated PG-13), Robin William's character may be disallowed from the stage, if a high school student was in attendance. Having fun with gender expression is a part of many performances that have nothing obscene about them. Obscenity laws should be specified by identifiable behaviors. "Prurient interests" is not easily defined. Conversely, "topless" and "stripper" performances are easily defined behaviors, and I would support that portion of the bill. Impersonations are not in that category.

When it comes to exposure to performance material, parents should be able to make these decisions in a way that is in line with their values, as well as the developmental level of their children. This is why rated R movies can be observed by youth when accompanied by an adult. I am not in favor of forbidding a mature 17-year-old from watching a show that involves exploration of gender norms. If there is a problem somewhere in the state with inappropriate performances, defining the problem as "impersonation" is too much of an infringement on our freedom of speech. Please vote **Do Not Pass**, given our value for freedom.

Written Testimony in **Opposition** to HB 1333

I stand in opposition to HB 1333. Given that North Dakota already has laws governing obscenity, this bill serves no purpose other than to discriminate against drag performance – making the false equivalency that simply to dress in drag is obscene. This ignores a long history of public drag performances, including the use of male actors playing female roles, beginning in ancient Greece when women were barred from stage, and continuing in the plays of William Shakespeare. In the ballet “Cinderella” the wicked stepsisters are played by men. More recently, Dustin Hoffman played a female in the beloved and empowering movie “Tootsie,” and Robin Williams played a female nanny in “Mrs. Doubtfire.” Children are not harmed simply because a person is dressed in drag.

This bill strikes me as unnecessary and harmful government meddling in personal freedoms and choices of families, as to what entertainment they wish to enjoy. It restricts the freedom of drag performers and their creativity in developing family-friendly shows.

Therefore I stand in opposition and urge a Do Not Pass on HB 1333.

Janet Mathistad,
Minot ND

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333. I ask that you give this bill a Do Not Pass.

The reason for this is that this bill is poorly written. I'd like to pay special attention to this paragraph.

“Adult cabaret performance” means a performance in a location other than an adult cabaret which features topless dancers, go - go dancers, exotic dancers, strippers, male or female impersonators who provide entertainment that appeals to a prurient interest, or similar entertainers, regardless of whether or not performed for consideration.”

Reasonable people may come to different conclusions on who and what would qualify for an “Adult cabaret performance” under Section 1 of HB 1333. Would we impose criminal penalties on football games at the half-time show if someone considered the entertainers and performers go-go dancers? If a lady danced in the bar and removed a layer of clothing, would we call the cops? If we had a concert featuring backup dancers who appealed to prurient interest, who would pull the trigger on the event? What modesty panels could we set up ahead of time to make sure an act wouldn't be considered too sexual?

If a bar was playing the newest episode of Ru Paul's Drag Race, would we arrest the owner or Ru Paul? Should we arrest the person who turned it on? If we are allowing video of this in public spaces, could we then record drag shows and have them played on projectors?

If we have live performances of drag shows, what constitutes their level of...let's say prurientness? Would we allow turtleneck sweaters on our drag performers? If a play had a cross-gender performance, would we arrest the producer or the actor? Would that be dependent on how attractive the actor was; what I mean is do they need to be inherently sexy to violate this law or is any “impersonator” in public space inherently criminal? Would we consider arresting any trans person under this law, assuming they did some action that could constitute a performance - like perhaps singing while walking?

I've also noticed some movies have nudity in them or even things one may consider “sexual”. Should we look at banning movies in our state or just arresting parents who allow their kids to see them? I'm curious how this bill will seek to criminalize that.

I think there are some common sense pieces of legislation around things we understand to be adult performances, but this is not one of them and the placement of “sex impersonator” is especially egregious due to the subjectivity of the legislation and those who may enforce it.

There are drag shows that feature adult performances and they occur in bars where individuals need to legally be adults to enter, in the same way there are movies you need to be an adult or with an adult to see. There are drag shows for kids, in the same way there are movies for kids. Drag is a kind of entertainment that is not inherently sexual. It is predominately about being

fabulous and glamorous in the way idols tend to be. It is also a cultural touchstone of LGBTQ+ individuals, deeply rooted in shared history and resiliency. It is an art of the community that is expressed on an individual level and with individual purpose. The performance can be about getting laughs, about empowering a crowd, creating art, or simply having fun. Performances can be pieces of resistance or pieces of hope.

What I'm having the most trouble understanding is how a drag performer by virtue of them being a drag performer constitutes extra criminality? If they did go against what we already understand to be obscene actions, we have laws on the board to address that. If they did strip to nudity in public spaces, we don't need this legislation to press charges. And if we are judging them harsher than any other entertainer, dancer, or performer then that would appear to me a specific attack on a community's culture. Law needs to be blind and this one seems to simply have binders on.

It is for these reasons, I ask you to vote Do Not Pass.

Thank you for your time, consideration, and service to our state,

Best regards,
Faye Seidler

Committee Chair and members of the Committee,

My name is Janet Fisher. I am writing in opposition to HB 1333. I oppose this Bill because it includes the phrase “. . . male or female impersonators. . . .” Drag shows presently held in public places are already restricted to large rooms, such as hotel ballrooms, that have doors that are closed during the performances. Drag shows offer a unique form of entertainment that includes professional performers who have spent a great deal of time studying and preparing their art much like any theater actor who performs on a public stage. Bill 1333 assumes that all male and female impersonators perform solely for prurient interests. That notion is simply not true.

I recommend that reference to “male and female impersonators” be omitted.

I am opposed to Bill 1333 as it is written now.

Thank you for your consideration.

Janet Fisher

Chairman Klemin and members of the House Judiciary Committee,

My name is Maura Ferguson and I am writing this testimony as a resident of ND and independently from my employer. My views do not represent my employer. I write to you today as a community organizer, a mother, and as someone who cares very much about the LGBTQIA+ community.

Thank you for your time and consideration of this written testimony in regard to HB1333. I am writing in opposition to this bill as proposed, due to the inclusion of "male and female impersonators" and the implication that drag performances should be treated the same way as adult entertainment as outlined within the bill. The inclusion of drag performers in this bill shows a fundamental misunderstanding of drag as an art form and as a tool for community building.

Freedom of speech includes freedom of expression, and drag performances are absolutely included within those freedoms. Drag artists are not harming anyone, in fact, quite the opposite. Drag performances are frequently utilized in positive, beautiful ways to build community, which is sorely needed for members of our LGBTQIA+ community who often feel marginalized and isolated. Drag performances can show people of all ages the beauty of artistic expression and can help people know what it feels like to belong. This is deeply important for those who need it. I urge you to vote Do Not Pass on HB 1333.

Thank you for your time, consideration, and for your dedication to ALL people in the state of North Dakota, including our LGBTQIA+ community.

Maura Ferguson
Grand Forks

Dear Chair Klemin and members of the House Judiciary Committee,

My testimony is in opposition to the House Bill 1333. I ask that you give this bill a Do Not Pass.

The reason for this is that this bill affects individuals I care about, and I know that all-ages shows in Grand Forks do it for the kids. Some of the performers are aware that we may not get tip much, but we are providing a safe environment for children and their families. In addition to these performances, we have raised funds for numerous charities and communities. These performances have been misrepresented as adult entertainment and unsuitable for young audiences. We have limitations in terms of what we dress and how we lip-sing. We do our best to make our All-Ages Show PG, or at the very least PG-13.

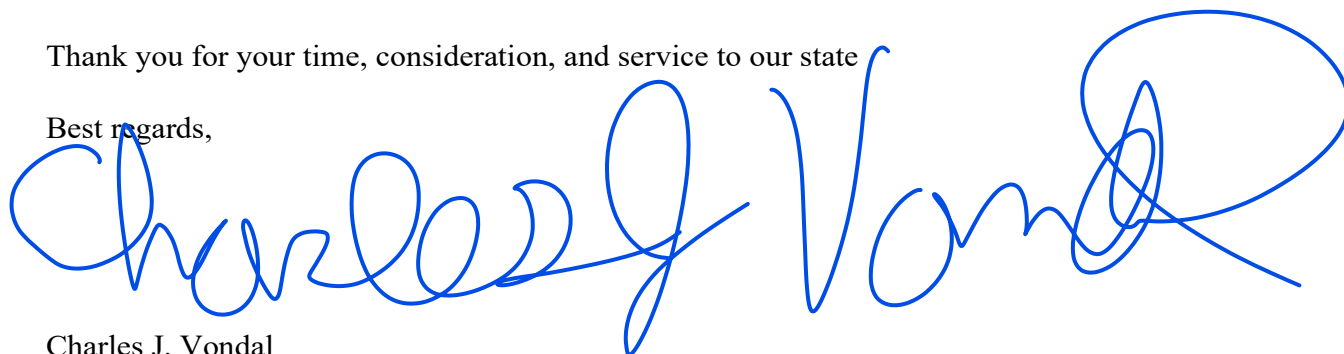
Whereas this law incorrectly associates all drag performances with adult entertainment and may have unintended consequences, such as when it comes to gender-bending in theater. What then, does someone have to be fined for gender-bending a character in play? Drag has been around for generations; I recall watching Mrs. Doubtfire, Madea movies, Mrs. Brown's Boys, Busy Bunny, and many more as a child.

Passing this bill not only affects the performers but also the businesses that host them. Any business in this state should be entitled to make economic decisions without political meddling, but I believe it also alienates residents. What is the point of burdening small and local businesses even more? This is simply an attempt by a small group of people to impose a personal belief on residents of this state. If you do not want your child(ren) to attend a show, please do not go. Other caregivers can make their own decisions about whether to allow their child(ren) to attend a show.

Hence why I ask that you give this bill a Do Not Pass.

Thank you for your time, consideration, and service to our state

Best regards,

A large, stylized handwritten signature in blue ink that reads "Charles J. Vondal". The signature is written in a cursive, flowing style with large loops and a prominent "V" at the end.

Charles J. Vondal

This letter is intended to serve as a good faith recommendation that HB 1333 should not pass. I try to assume that others have good intentions, so I am assuming that this bill was introduced with the intention of protecting children/youth. However, I feel it has a much higher chance of harming our LGBTQ+ youth than it does at protecting anybody. I work closely with at-risk, homeless, and struggling LGBTQ+ youth, and many of them are afraid of this bill and several other proposed anti-trans bills on the horizon for North Dakota. I have had young people express to me that they now feel afraid to dress in the clothes they like, or even to exist in public as transgender individuals.

I do not take any issue with wanting to shield children from things like nudity, exposure to pornography etc. That is common sense, and we already have laws against public nudity and indecent exposure. What I take issue with is the bill's assertion that "male and female impersonators" inherently serve a "prurient interest". Gender experimentation and questioning, cross-dressing etc. are normal and completely non-sexual components of many North Dakotans' quests to live as their most authentic selves. There is nothing inherently sexual or "prurient" about a man wearing a dress, or a woman wearing a suit. When considering the welfare of children/minors, we need to be thinking about all of them, including our LGBTQ+ youth. LGBTQ+ youth are at higher risk than their peers for homelessness and suicidality, and are particularly vulnerable to abuse, human trafficking, and discrimination. They need desperately to see themselves represented. For many LGBTQ+ youth, particularly those in rural states like ours, there are very few opportunities to see happy LGBTQ+ adults represented around them. Drag queens and drag kings serve as powerful symbols of inclusivity and resilience for their local LGBTQ+ communities. I have seen firsthand how our local queens can lift spirits when making appearances at pride parades, skate nights, etc. and how young people light up when they see them.

There are drag shows that are intended for patrons over 18 and advertised as such, just like there are movies that are rated "R". Children are not, and should not be allowed at those shows. But that doesn't mean that drag as an art-form is inherently "prurient", just as going to the movies is not inherently "prurient".

This bill will not be protecting young people and is in fact harming them. There has been a noticeable negative impact on our local LGBTQ+ youth simply reading and hearing about the proposed bill. It is already scary enough for these young people to have to grow up trans/gender-conforming in a place that is often unwelcoming to them. Drag performers remind them that it is ok to be different, and that people like them can grow up to be happy and celebrated. We have nothing to gain from criminalizing drag, but we do stand to lose needed role models and sources of support for many LGBTQ+ North Dakotans, who will now be afraid to simply exist in public.

January 22, 2023

Chairperson Koppelman and Committee Members,

I strongly urge a Do NOT Pass on HB 1333. One of the beloved outdoor performances in Bismarck is Capitol Shakespeare. The performance of a Shakespearean play is a wonderful celebration of the arts and community on the capital grounds. Occasionally, the best person for a part is not the same gender as the character. In fact, traditionally, Shakespearean plays were often acted out by actors not matching the gender of the character. Shakespearean plays also have sexual puns and erotic innuendo embedded throughout; yet, the stories have proven to be timeless and of great cultural importance. On these grounds, HB 1333 would ban Capitol Shakespeare and other similar events. “Male or female impersonators” could be applied to any actor who is playing a part that is gender ambiguous or traditionally played by a specific gender even if they are the best actor for the part. Exactly what constitutes a “prurient interest” is subjective. The jokes in Shakespearean plays which walked over the line in the 16th and 17th century may or may not constitute a “prurient interest” today – each individual would need to determine that for themselves. HB 1333, however, would remove the right for each individual and family to make their own decisions on what is appropriate for them.

Another wonderful cultural performance on the capital grounds is the belly dancing group from the YMCA. This exercise group works hard to prepare for performances at the Capital A’Fair and various other events around Bismarck. Belly dancing strengthens the heart as an aerobic exercise and increases flexibility and bone health in the entire body. It is also accessible to people regardless of their ability level and a source of increased self-confidence and self-esteem. However, some people might define belly dancing as “exotic dancing,” because the midriff is usually showing. According to HB 1333, the cultural belly dancing performances and belly dance exercise classes could be defined as “adult cabaret performances.”

I urge a Do NOT Pass on HB 1333.

Sincerely,

Gretchen Deeg
917 N 5th Street
Bismarck, ND 58501

My name is Jodi Plecity and I am in support of HB 1333. We need to stop sexualizing and subjecting our little children to such nonsense. It is perverse and these types of shows have no positive benefit to the eyes of kids. By society allowing this to continue will only cause more harm if it's not stopped immediately. It should only be for adults if they choose. It crosses the line when children are subjected to these drag shows, and it is completely disgusting. Please pass this bill.

Thank you.

Jodi

January 22, 2023

Re: HB 1333

Dear Chairman Klemin and members of the House Judiciary Committee,

My name is Kara Gloe. I am a mental health therapist licensed in both North Dakota and Minnesota. I work at Canopy Medical Clinic. Among the primary populations of people I serve, are LGBTQIA2S+ folks. As such, I am here today to talk about the discriminatory nature of this bill. It is a veiled attempt to push LGBTQIA2S+ people back into the closet. As such, I urge you to please vote **DO NOT PASS on HB 1333**.

Drag is not inherently overtly sexual. Last summer, I took my two young children to their first all-ages drag show. What they saw, and I know because I asked, was people dancing, singing, enjoying themselves, and entertaining the crowd. What they saw was people living an aspect of their authentic lives. Certainly, there are times when drag performances are not suitable for all ages, just like there are concerts and bands that are not suitable for all ages. We do not try to criminalize live music. We expect parents to be responsible for gauging what is and is not appropriate for their children. Why are parents not given the same trust and respect when it comes to all-ages drag shows and children's drag story time, of which the programming is specifically created with children in mind? After all, the audience consideration is in the name.

Additionally, the language of this bill is vague and poorly written. Who decides what a "prurient" interest is? Does one have to receive money or be intentionally attempting to "entertain" while appearing to be a "male or female impersonator." Or is it enough to just be walking down the street while appearing to be a "male or female impersonator." How will we decide when someone is a "male or female impersonator" and not just wearing the clothes, makeup, hairstyles they prefer?

The assumption that drag is innately "prurient" is baseless, as drag performers have demonstrated they are perfectly capable of making age-appropriate content for specific audiences. Additionally, as there are so many aspects of this bill of which appear to be undefinable, it is clear the problem is not drag shows. If passed, this bill will send the message that North Dakota does not recognize the value of its LGBTQIA2S+ friends, family, and neighbors. It will increase minoritized stress. It will steal an avenue of authenticity for people, and will contribute nothing to the greater good.

Drag is widely accepted to be a form of self-expression, which means this law is likely to be constitutionally challenged as a violation of the First Amendment. This would mean North Dakotans would be on the hook for an expensive legal challenge, it does not seem likely to win.

Drag is an art form. Drag is self-expression. You will not be able to legislate it away. It has already survived the closet. Continued attempts to legalize discrimination will only result in backlash and unintended consequences. **Please vote DO NOT PASS on HB 1333.**

Sincerely,
Kara Gloe, LMSW
Canopy Medical Clinic

Dear Chair Klemin and members of the House Judiciary Committee,

My name is Aeon Axiom Carlson, my pronouns are xey/xem or they/them, and I'm a current volunteer and former secretary of Tristate Transgender. My testimony is in opposition to the House Bill 1333 . I ask that you give this bill a Do Not Pass.

The reason for this is that this bill would have a direct negative effect on my life. I have made Fargo/Moorhead my home for over 15 years. I have lived and worked in Fargo, my children were born there and I attend many events and volunteer in the community. I am a trans and genderfluid. I am also a parent and I am concerned about the wording of this bill as I feel it demonstrates a misunderstanding of who it is trying to regulate. I have several main concerns I hope you will consider.

First, there is a conflation of gender expression other than that corresponding to sex at birth as being "prurient" or sexual in nature. When I listened to the different committees discuss these last few weeks there was a consistent concern that sex is being disregarded and that gender is to be the new scientific standard. I see the core of the discourse around trans rights and specifically this bill stemming from this fundamental concept. The trans community knows what sex is, and the scientific community is not disregarding biological sex either. We do not intend to take this from anyone. What we are acknowledging is that gender is a concept and a social role. It is within the realms of freedom of thought and speech to take on a different gender role than the one given to us at birth that correlates with our sex. Just as much as it is a freedom to see someone differently than they insist they are, it is a freedom to dress in whatever clothes in any way we choose. It is our freedom to identify more with the social gender we have chosen, than the sex we were born with. So in some ways sex and gender are related, but expressing gender other than what correlates with sex assigned at birth is not a sexual act in itself. It is not prurient or perverse. It is an expression of identity. This bill would criminalize this freedom. Second, I am genderfluid and I am trans. My birth certificate reads X. At no point am I technically not in drag in some way. My clothing cannot fall in line with my sex, and even if I were to dress as the gender that matches the sex I was assigned at birth, because I am post medical transition, it is still drag. I am a hula hoop performer and one of my favorite things to do in the summer is visit the lovely fargo parks in a nice flowy dress and hula hoop and dance while my kids play on the playground. This bill would strip away everyday joys and freedoms I have as it is worded in a way that erases and ignores genderfluid and gender nonconforming people. It would paint actions of wholesome family time in a terrifyingly dark light that as a parent is unimaginable. Thirdly, I have listened and heard an honest and valuable concern for children. This bill would take drag from our Pride parade and many public venues where children can see that we exist. Parents' freedom to choose what culture and beliefs to raise our children with is fundamental. I had been very frustrated in past years at the public and graphic demonstrations at the downtown women's clinic specifically because I felt it was inappropriate for my children to see. I followed up on it and learned it was their freedom of speech and that I had the agency to choose not to bring my children there and I believe that this is right. I respect other families for deciding that gender non conforming actions are not within their families core values, but it is infringement on my right as an American and a parent to try to control how I display and teach gender to my children. I appeal to your own desire to remain free in how you perceive others and raise your children, to extend the same decency toward a corner of culture that is inherently

a part of North Dakota and America. For these reasons, again, I ask that you vote in opposition to HB 1333.

Thank you for your time, consideration, and service to our state

Best regards,

Aeon Axiom Carlson(xey/xem, they/them)

Olivia Data
Testimony on HB 1333
January 23, 2023

RE: Testimony in Opposition to HB 1333

Good morning, Chairman Klemin and members of the committee. My name is Olivia Data, I am a North Dakota resident, and I am writing to you today to ask you to vote “Do Not Pass” on HB 1333.

There seems to be a recent trend of targeting art and culture in the name of protecting children. As children are exposed to more and more information and content online and in our growing world, I understand this reaction. Yet, I ask you to consider the consequences of purging our communities of all performances that so much as border on risque. Not only is the definition of what “appeals to a prurient interest” extremely subjective, but many things that some people would consider taboo are to others a celebration of solidarity, community, and love.

In particular, I ask you to consider the example of “male or female impersonators,” or drag queens. During Bismarck Pride, there is often a performance on the capitol grounds in which drag queens lip sync to fun, kid-friendly songs. I am aware of recent waves of fear mongering against drag queens – and, quite frankly, just about anyone in the LGBTQ+ community. There are fears that drag queens could corrupt children, expose them to sexual content, and much more, but as someone who has attended Bismarck Pride with my friends and family for the past two years, I can tell you that this is not true.

Drag queens who perform for non-18+ audiences have appropriate, child-friendly routines. There is energetic dancing, abundant glitter, and outrageous wigs. These performances are lively and

Olivia Data
Testimony on HB 1333
January 23, 2023

entertaining and beneficial to children who want to know that they live in a state that will celebrate them for who they are. Kids are far more likely to get healthy exercise while dancing with their friends to these performances than they are to be corrupted or see anything inappropriate.

I remember watching these performances myself and feeling thankful that I lived in a world where all different types of people could come together as a community and just have fun being ourselves. But HB 1333 prioritizes fear and shame over the joy we have built together.

I urge you not to succumb to fear mongering and prejudice. Please, let us foster a community of love, confidence, and acceptance. I ask you to vote “Do Not Pass” on HB 1333.

Thank you for your time, and I am happy to answer any questions you may have for me about my testimony.

Olivia Data
District 35
Bismarck, ND

Committee members,

I am opposing bill HB 1333 for the following reasons. As an occupational therapist, we recognize the importance of mind-body-spirit connection to promote a sense of well-being. We all as humans connect to those three elements of ourselves in varying ways. What I may enjoy as a way to spend my time versus how another person chooses to connect to their body varies. Rates of substance misuse is higher amongst the LGBTQ population and we may often hear individuals speak of a dissonance between the mind-body-spirit leading to a need to fill a vacancy in their realm of well-being.

For a person to be able to use their body in a way of self-expression to what is meaningful to them, provides an option to fill vacancies in a constructive versus destructive way (substance misuse). Providing penalties on how a person chooses to spend their time through self-expression will not stop the acts from happening, it will create shame for engagement in the acts. For those of us that are familiar with mental health, we know that shame is the root of substance misuse. North Dakota has one of the highest rates of binge drinking and alcoholism in the country. By putting this bill in place, we will certainly perpetuate what is already an area that we are not addressing for the people in our state.

Instead of blocking people from being seen, let's allow them visibility. Generally when a person is on a stage that's what they're looking for in fulfillment right? To be seen. Let's let people be seen for who they are.

Thank you for your time.

My name is Joseph Larson, and I serve pastor with St. Mark's Lutheran Church in Fargo, ND. I am one of a few openly gay ELCA pastors called by Lutheran congregations in North Dakota. My congregation voted to become welcoming towards LGBTQ individuals and their families over 30 years ago—which was a big deal then and still is today.

I am writing to voice my opposition to HB 1333.

As a member of the LGBTQ+ community, I have attended dozens of drag performances. Nearly all of them have been funny, joyful, life-giving, creative performances to people who have come to see them in gay bars, at Pride events, or public events. Parents who bring their children to these shows know what they are and tell them what to expect. Many of the children want to attend.

Drag performances have always been a cultural part of our LGBTQ+ community and do not cause harm to anyone. Anyone who is offended by them does not need to attend. There is no need for our state government to legislate them anymore than there is to legislate musicals at public schools, musical performances at colleges, community parades in small towns, or talent shows in churches.

As a pastor, I oppose using our Christian beliefs and morality to mandate legislation. I believe Christ called us to love one another, show compassion to those in need, and not judge others. As the prophet, Micah once said, "What does the LORD require of you, but to do justice, to love kindness, and to walk humbly with your God?" (Micah 6:8)

I pray that you will not support HB 1333, and seek to promote legislation that makes North Dakota a welcoming and supportive state for our LGBTQ+ community.

Sincerely,

Rev. Joe A. Larson
St. Mark's Lutheran Church
417 Main Avenue, Suite 401, Fargo, ND 58103
pastorjoe@stmarkslutheranfargo.com
Cell: 612-750-5079

January 23rd, 2023

Testimony in support of HB1333

Some months ago, I was shown images of a child giving money to adults who were performing at a drag show located in Bismarck. Shortly after, I discovered that a similar event occurred in Fargo. Both are sickening and against human decency, let alone Christian morals.

In voicing my negative opinion on such matters as well as other “festivals” in a private digital setting that which was wrongfully invaded. Free-lance media attempted to destroy not only my reputation, credibility and image; but my friends as well with opinion articles. Being upset about the grooming and sexualization of children should not warrant the persecution I and again my friends have faced, but it has become that way in this great nation. To this day I am labelled things I am not. I am treated differently, despite the lack of claimants coming forth with any evidence of discrimination, in reality of any form.

We see now that those amongst the NDGOP have finally decided to address this problem and not just condemn those who have concerns for it. No sane human being should be ok with exposing children to this debauchery. For those who cite the Fist Amendment as protection for such acts, I suggest they educate themselves on the Miller test.

To quote Sir Winston Churchill “Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning.”

I want to thank Representative Prichard and his colleagues for introducing this bill. As someone who has traumatic experiences of sexual grooming at a young age, someone who has had relationship struggles due to the sexual abuse that multiple partners of mine have faced in their childhoods. We will only know what damage has really occurred decades down the line.

From someone who intends on raising a family in the Peace Garden State, God Bless You.

Respectfully,

Benjamin Schirrick

Comments to House Bill 1333 to House Judiciary Committee 1/23/2023

Chairman Klemin and honorable members,

I am Tracy Potter, a resident of District 35 in Bismarck. I urge a do not pass recommendation from your committee on HB 1333 because it is unnecessary, poorly defined, an intrusion into parental rights and intrusive on artistic expression and commercial enterprise.

State obscenity control statutes in NDCC 12.1-27.1 already protect minors from performances aimed at eliciting prurient interest. They also prohibit exhibitions to minors "that are patently offensive to prevailing standards in the adult community of North Dakota as a whole with respect to what is suitable for children." This means that if female or male impersonation is patently offensive it is already prohibited for children. If it is not patently offensive, what justifies the bill? The obscenity statutes focus on a whole list of sexual conduct, none of which involve dressing so as to impersonate a member of the opposite sex.

Stage acting as a member of the opposite sex is as old as Shakespeare and the Globe Theatre and more recently in Tootsie and one of my favorite movies, Some Like it Hot. What was hot about that movie and aimed by the director to elicit some prurient interest was not Tony Curtis and Jack Lemmon dressing in drag, but Marilyn Monroe being Marilyn Monroe.

As far as putting an age limit on attendance at shows with male or female impersonators, you would be putting state law in loco parentis, suggesting that state government knows better than parents what their 16-year-old children should see at the Civic Center. No "Go-Go Dancers?" Really? So if there is a Broadway Musical reviving the 60s or 70s and including Go-Go dancers at the Bismarck Civic Center, minors can't go? Well, actually no if this passed because the Civic Center couldn't host it because the bill also bans these performances on all public property. Shakespeare in the Park on the Capitol Grounds. Casting could be a problem in high school plays if not enough boys show up for auditions and some male parts can't be filled by female students.

This bill could have way too many unintended consequences. It is unnecessary, poorly defined and a government overreach into North Dakota family life.

I urge you to recommend the House do not pass HB 1333.

March 18, 2023

Dear Chairman Larson and Members of the Senate Judiciary Committee,

I submitted testimony in opposition to HB 1333 in January. I stand by that submission; however,

I would like to amend my submitted testimony to include the following considerations:

1. HB 1333 makes no exception or accommodation for entertainment provided by productions of major entertainment icons popular such as Harry Styles, Sam Smith or Madonna.
2. Stage Productions such as La Cage au Folles would also seem be at risk; whether produced by local theater companies, high school drama and music departments or traveling companies- "off Broadway".
3. Are members of a high school athletic team now prohibited from dressing as "cheerleaders" for an event such as Homecoming Game pep rallies if such a skit was organized?
4. Are "drag" performers now prohibited from local Pride parades?

I respect the conviction of the supporters of this proposal. I also respect the freedom to participate in or attend a performance where the costuming or subject may be controversial to some. As there is no compulsory participation by any citizen or resident of our state; no suggestion to harm our citizens or overthrow any government entity or otherwise damage our democracy I would ask you to give HB 1333 a DO NOT PASS recommendation

Thank you for considering my position. I also thank you for your dedication in service to our great state.

Regards,

Michael J. Southam

Senate Judiciary Committee
March 20th, 2023
HB 1333- Testimony in Opposition

Chair Larson and members of the Senate Judiciary Committee, my name is Whitney Oxendahl and I am writing in opposition to HB 1333.

My family, including my three small children, attend the Fargo-Moorhead Pride Parade every year. It's one of the best parades of the year - fun, colorful, and inclusive. It brings people downtown and into the community. If this bill passes, the parade would become the Moorhead Pride Parade. The festivities would no longer be able to pass through downtown Fargo, because of the clothes that people are wearing.

Drag is a celebration, an art, and a part of LGBTQ+ culture. This bill seems aimed at taking away the culture of the LGBTQ+ community in the interest of "protecting children." I have children ages 2, 4, and 7, and it has not hurt them to see people dressed in drag. This bill takes other people's beliefs on what children should or should not experience and puts them on my family instead of letting us decide.

If a parent does not want their child to see drag, then they shouldn't bring them to the Pride Parade or bring them to an all-ages drag show. I urge you to leave this parenting decision up to parents and keep the state government out of it.

Thank you for the opportunity to share my testimony.



THE MEDIA COALITION

DEFENDING THE FIRST AMENDMENT SINCE 1973

American Booksellers Association Association of American Publishers Authors Guild Comic Book Legal Defense Fund
 Entertainment Software Association Freedom to Read Foundation Motion Picture Association

Memo in Opposition to North Dakota House Bill 1333

We oppose North Dakota House Bill 1333 because we believe it violates the First Amendment rights of retailers and other businesses. The trade associations and organizations that comprise Media Coalition have many members throughout the country, including North Dakota: authors, publishers, booksellers and librarians, producers and retailers of films, home video and video games. They have asked me to explain their concerns.

Summary of the bill

H.B. 1333 would make it a crime to engage in a performance in a location other than an adult cabaret that features male or female impersonators who provide entertainment that appeals to a “prurient interest” if the performance is given in the presence of a minor or on public property. “Prurient interest” is not defined in the bill or by reference to an existing statute.

A first violation is a misdemeanor, and a second violation is a felony. Booksellers, theater owners and other businesses may be guilty of aiding and abetting a such a performance for hosting or organizing a drag performance.

The bill threatens booksellers and other retailers who host in-store events for notable authors such as RuPaul or who may invite entertainers to draw customers such as a female Elvis impersonator. It would also bar a theater from staging performances of many notable plays that have actors playing members of the opposite sex.

Unconstitutional restriction on speech

The bill is unconstitutional because it makes it a crime to allow a minor to see a reading, monologue, play or other performance by a male or female impersonator if it appeals to a prurient interest. The performance certainly is not limited to sexual content that is illegal for minors. In fact, nothing in the bill limits it to a performance that has salacious elements or dialogue. Therefore, the bill criminalizes speech beyond what the U.S. Supreme Court has said can be deemed to be illegal for minors. While minors do not enjoy the protection of the First Amendment to the same extent as adults, the Supreme Court has ruled that “minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected material to them.” *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 212-13 (1975). See also, *Brown v. Entertainment Merch’s. Ass’n*, 564 U.S. 786 (2011).

Even if the bill was limited to drag performances that appealed to a prurient interest in sex, it would still be unconstitutional because it is not limited to sexual speech that the Supreme Court says may be made illegal for minors. The contours for what speech could be barred for minors

were established in *Ginsberg v. New York*, 390 U.S. 629 (1968), and subsequently modified by *Miller v. California*, 413 U.S. 15 (1973). Chief Justice Berger wrote in *Miller*:

“[W]e now confine the permissible scope of such regulation to works which depict or describe sexual conduct. That conduct must be specifically defined by the applicable state law, as written or authoritatively construed. A state offense must also be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value.

Id., at 24. It is generally accepted that this test for obscenity for adults modified the existing test for material harmful to minors. Under that test, in order for sexually explicit material to fall outside the First Amendment as to a minor, it must, when taken as a whole:

1. predominantly appeal to the prurient, shameful or morbid interest of minors in sex;
2. be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
3. lack serious literary, artistic, political or scientific value for minors.

Governments may restrict access to sexually explicit speech for minors up to what is permitted under the test, but they cannot go beyond this narrow range of material as defined in *Ginsberg* and modified by *Miller*. The Supreme Court has given states no leeway in altering the specific language in the tests for “obscenity” or “harmful to minors.” In *Miller*, Chief Justice Berger emphasized that any state law regulating obscenity “must be carefully limited” to avoid “the inherent dangers” of criminalizing speech. *Id.*, at 23-24.

The Supreme Court has repeatedly rejected attempts to restrict minors’ access to sexual speech that was broader than what is allowed under the *Miller/Ginsberg* test. In *Reno v. American Civil Liberties Union*, the Supreme Court struck down a federal law that barred dissemination of “any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication.” 521 U.S. 844 (1997). The Court dismissed the government’s argument that it could bar this speech under the *Ginsberg* precedent. *Id.*, at 865. See also, *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 127 (1989) (struck down a law barring indecent content rather than content that is harmful to minors under the *Miller/Ginsberg* test); *Erznoznik* 422 U.S. at 213-14 (striking down a law barring minors from accessing material containing nudity without any of the prongs from the *Miller/Ginsberg* test); *Powell’s Books v. Kroger*, 622 F.3d 1202, 1213 (9th Cir. 2010) (blocking enforcement of an Oregon law barring sexual speech for minors that did not comply with the *Miller/Ginsberg* test); *Entertainment Software Ass’n v. Blagojevich*, 469 F.3d 642 (7th Cir. 2006) *aff’g* 404 F. Supp. 2d 1051 (N.D. Ill. 2005) (permanently blocking an Illinois law that barred the sale of sexual material to minors but omitted the serious value prong of the *Miller/Ginsberg* test).

H.B. 1333 is also unconstitutionally vague. The lack of definition of “prurient interest” leaves the term open-ended with no guidance for how to comply with the law. There is not limitation as to what the prurient interest is in or who judges whether the interest is prurient. It is well established that any law must be sufficiently clear to be understood by the common person. In *Coates v. Cincinnati*, the Supreme Court struck down a law barring congregating on a public sidewalk if it would “annoy” others. 402 U.S. 611 (1971). The Court held, “[T]his ordinance is unconstitutionally vague because it subjects the exercise of the right of assembly to an unascertainable standard, and unconstitutionally broad because it authorizes the punishment of constitutionally protected conduct.” *Id.*, at 614. The requirement of clarity in the law is especially stringent when a law infringes on First Amendment rights. See *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982); *Keyishian v. Bd. of Regents*, 385 U.S. 589, 604 (1967) (quoting *NAACP v. Button*, 371 U.S. 415, 432-33 (1963)) (“Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity.”). The lack of a clear definition is especially worrying in the current climate when some believe that any performance by a male or female impersonator is prurient.

We understand that booksellers and similar retailers may not be the target for this legislation. However, the constitutional infirmities of the bill cannot be saved by a promise by legislators or prosecutors that the statute would be construed narrowly. As the Supreme Court wrote in *U.S. v. Stevens*, “[T]he First Amendment protects against the Government; it does not leave us at the mercy of noblesse oblige. We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly.” 559 U.S. 460, 480 (2010).

Passage of this bill could prove costly. If a court declares it unconstitutional, there is a good possibility that the state will be ordered to pay the plaintiffs’ attorney’s fees. In *Powell’s Books v. Kroger*, a challenge an Oregon law that did not comply with the *Miller/Ginsberg test* and brought by members of Media Coalition, the state of Oregon agreed to pay plaintiffs more than \$200,000 in legal fees.

Again, we oppose H.B. 1333 because we believe it violates the constitutional rights of booksellers and other businesses that host or disseminate First Amendment protected material. We would welcome the opportunity to discuss these concerns further. If you would like to do so, please contact our Executive Director David Horowitz at horowitz@mediacoalition.org or by phone at 212-587-4025. We ask you to protect the First Amendment rights of retailers and all the people of North Dakota and amend or defeat H.B. 1333.

Jane Pettinger

3633 River Drive
Fargo, ND 58104

Date: March 19, 2023

To: North Dakota House Judiciary Committee

Re: HB 1333 which criminalizes drag performers/performances

Committee Chair and members of the Committee -

My name is Jane Pettinger, I reside in Fargo. I was born and raised here. This note is to let you all know that as a lifelong North Dakotan, I stand in firm opposition to HB 1333.

This bill is such nonsense that I am kind of amazed I even need to write this letter. If you have any actual concern for children being sexually abused, let's take a look at who actually harms our children sexually; priests, youth ministers, and pastors. THAT is who we KNOW harms our children by grooming them carefully and then sexually abusing them. Of course, not all pastors, youth ministers, or priests do this. But I have NEVER heard of a drag performer harming a child. Never. Not once. Why is this bill needed? What problem is it resolving? What constituents is it serving? Seriously!? What the heck are we spending time on this issue for?

Jeez. Why is this an issue?

Jane Pettinger

HB #1333 **03/19/23**

68th Legislative Session

Senator Estenson

Representatives: Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, D. Ruby, Tveit, and VanWinkle

I am writing this testimony in opposition to HB #1333. The authors who drafted HB #1333 have clearly never been to a Drag Show and do not understand the people who appear on stage nor do these same Legislators even consider the World's history of theater.

How many of you even attended a Drag Show? I can honestly say I have attended Drag Shows and let me tell you what you would have observed had you attended this event with an open mind and approached the show with no preconceived judgements.

What you would have witnessed by attending a Drag Show is individuals who perform in Drag Shows take their art/craft very seriously. These people do their act just as any actor on a Broadway stage or those in films. These individuals rehearse their acts, they wear costumes and do their makeup just like those who perform in New York or in LA, Denver, Chicago, Miami, any place where people are allowed the freedom to perform.

Drag Shows are not perverse or obscene. In fact, if you would look back in history you would see that in 17th Century during the Shakespearean times, men dressed and played female roles. Back in this era, women were not allowed to perform in theater, so men had to play the female role in plays. This was widely accepted and not deemed unusual or something to be concerned about.

The term "Drag" is derived from the fact that men played and dressed as women during this time but this also described how the female costume would "drag" across the floor. Hence, that is how the term dressing drag came about. Men in this era also wore what we call tights now. Times have changed and with time changing so has clothing however more notable is the attitude and insecurity of those who regard men dressing in female costumes as unusual and highbrow.

I personally watched individuals get on stage and sing, dance, tell jokes and talk with those of us in the audience. The audience enjoyed the performances and the actors, and in turn, the performers performed their hearts out. At the end of the show, everyone was clapping and standing on their feet as all the performers came back on stage to close the show. There wasn't anything harmful or inappropriate about the show I attended, and I also took my daughter. My daughters were not harmed, scarred or in any danger of being assaulted or corrupted any more than they would be going to the local mall or going to any other public event.

I wanted my daughters to see these performances and have them experience the diverse event that highlights people who dressed in drag. I wanted my daughter to see that there isn't anything wrong with the people who perform and that diversity should be celebrated amongst all communities.

Why is it that now, our Legislators feel the need to be the "MORAL POLICE"? It is not our legislators place to tell a parent what kind of live event we should take our children too. Drag Shows do not harm children. Children are more likely to be harmed at a circus, if an animal gets away or monster truck shows where the decibels in the arena are so loud that peoples hearing can be damaged. For that matter, concerts of any kind should be prohibited. Again, the decibels from the musical instruments can harm the hearing of children.

If something offends you then don't attend the event. I find pageants offensive so I don't attend them. The females parading around in bikinis and high heels I find perverse. What is the purpose of that but only to appease the male population. There is no value what so ever of a female walking around on stage in hardly anything and in heels. Same for the evening gowns portion of pageants. I also can say that the uniforms of some athletic sports is less than desirable. Why are the volleyball shorts so tight and short; very form fitting and totally not necessary to the sport. Wrestlers have tight, form fitting gear. Maybe I find that offensive and think all of these sports wear need to be changed because in my eyes I don't like it. That is what this legislative group, the authors of this bill are doing.

As a parent I have the right to take my child to a concert, movie or whatever I choose and these legislators have no right to impose their beliefs on me and my family. Freedom of speech also includes singing and dancing. Why do the authors of this bill acting to infringe on the actors and spectators of Drag Shows. The legislators should be impose their personal beliefs onto the citizens of North Dakota because of their own personal take on something that they have never participated in or watched.

I find it laughable how we have GOP Congressman who dressed in drag and now GOP are condemning the very thing that has been done and pictures to prove the crossdressing Congressmen have emerged.

When will the witch hunt end? Let people earn a living doing what they love and also let the people who attend these shows be able to support these people while having fun watching the performances.

The GOP party is not the moral compass for ND. Stop saying your protecting children when your own party refuses to support public school lunch bills and child care bill for North Dakota. Just be honest and admit this is an attach on the LGBTQAI community.

The GOP is poised to take away medical care, medication, books, out children in schools, meal shame or limit school lunches, omit a transgender youth from having pronouns and chosen name used and also telling parents and doctors what they can and can't do to save trans youths but also mandating birth certificate measures just to make a few people comfortable. Yes, a few because there isn't an outcry of people in ND who feel their rights are being violated by transgender people or the LGBTQAI community. It is insecurity and ignorance of a few who need to either get in themselves secure with the fact that the world isn't a carbon copy of themselves or they need to educate themselves.

Stop looking for trouble where there isn't any. The legislative body has more important issues to work on vs what I do with my kids on the weekends.

Respectfully,
Kristie Miller

Dear Senate Judiciary Committee,

I urge the committee to give **HB 1333** a do not pass recommendation.

My wife and I own a house and work in North Dakota. The downpour of anti-LGBTQIA+ bills this legislative session has been beyond disappointing as someone who tries to stand up for our state.

I am reaching out specifically on this bill because it will have a huge impact on Fargo-Moorhead Pride events. I am the Chair of F-M Pride. Our events bring in people each year to positively celebrate our community and advocate for basic human rights. If the Senate passes this legislation, there will be financial impacts in Fargo. We host several events every August as a part of F-M Pride, many of which include drag performances. In addition, our events are inclusive and allow individuals to be their authentic selves - we will never host an event in a place that doesn't allow for this.

If this bill passes, it would force us to move all of our events to Moorhead, Minnesota. Thousands of people from North Dakota and surrounding states visit our community for our Summer Pride Events (one of the area's largest rural pride celebrations). In addition, actions like these cause North Dakotans of all ages to move away from the state, further stressing workforce issues. This bill is another attack on the LGBTQIA+ community by making an art form like drag a criminal offense.

Thank you,
Chelsea Diederich



The North Dakota Association of School Psychologists (NDASP) asks lawmakers to oppose the harmful policies outlined in the table below that target LGBTQ+ youth. These policies disallow students from using school facilities consistent with a student’s gender identity; require parental consent to have a student’s gender identity affirmed and acknowledged in school; mandatory parental notification when a student discloses they may be questioning their sexuality or gender identity; prohibition of classroom instruction on nonheteronormative sexual orientations and gender identities; removal of classroom materials that are inclusive of LGBTQ+ students and families; and afford protections for individuals who refuse to affirm a student’s identity and punitive measures for individuals who do. The following bills are discriminatory, against best practices, and do not reflect the peace and tranquility North Dakota is known for.

Vote NAY on House Bills			Vote NAY on Senate Bills
HB1205	HB1301	HB1474	SB2199
HB1249	HB1332	HB1488	SB2231
HB1254	HB1333	HB1489	SB2260
HB1256	HB1403	HB1522	
HB1297	HB1473	HB1526	

These proposed bills are in direct conflict with NDASP’s adopted position statement from the National Association of School Psychologists (NASP) which states that:

Positive educational and social outcomes for all children and youth are possible only in a society—and schools within it—that guarantees **equitable treatment to all people**, regardless of race, class, culture, language, gender, gender identity, religion, sexual orientation, nationality, citizenship, ability, and other dimensions of difference (NASP, 2019).

Additionally, school psychologists are guided by an ethical code that calls for beneficence, through which they respect the rights and dignity of all persons, and nonmaleficence, which requires that they do no harm. NASP’s ethical standards require school psychologists to validate and affirm a young person’s authentic lived experience, value their integrity, ensure their safety, and promote their well-being (NASP, 2020b). The proposed laws would prohibit school psychologists from practicing ethically.

Our LGBTQ+ youth need our support now more than ever. Some alarming statistics from The Trevor Project 2022 Survey include:

- 45% of LGBTQ youth seriously considered attempting suicide in the past year.
- 60% of LGBTQ youth who wanted mental health care in the past year were not able to get it.
- 73% of LGBTQ youth reported experiencing symptoms of anxiety
- 58% of LGBTQ youth reported experiencing symptoms of depression

NDASP also vehemently supports the use of evidence-based practice through an ethical lens. Conversion 'therapy' is not evidence based and has been determined to be fraudulent by several states. In fact, "The present-day scientific consensus is that such practices are not only ineffective, but highly harmful and fundamentally unethical." (Conine, Campau, Petronelli, 2022). Examples of historical unethical practices used in conversion therapy include corporal punishments such as spanking and electroshock therapy, among other questionable practices. The United Nations Human Rights Council (2020) goes as far to say that these practices are not only a public health problem, but also "violate the prohibition of torture and ill-treatment." 17% of LGBTQ youth reported being threatened with or subjected to conversion therapy (The Trevor Project, 2022), which can have life-threatening effects.

Support for LGBTQ+ youth leads to better outcomes for them and society as a whole. LGBTQ+ youth report that when adults talk to them respectfully about their LGBTQ+ identity and use their names and pronouns correctly, they feel supported. Research indicates that LGBTQ+ youth are more resilient when they have supportive people in their lives. Further, LGBTQ+ youth with higher resilience are 59% less likely to attempt suicide and 69% less likely to consider suicide (The Trevor Project, 2022). NDASP supports legislative actions to increase access to mental health for all individuals, including LGBTQ+ youth.

Please join NDASP in supporting our LGBTQ+ youth by voting "nay" on the house and senate bills listed above.

Sincerely,



Alannah Valenta, PsyS, NCSP

NDASP President, on behalf of North Dakota Association of School Psychologists

References:

Conine, D. E., Campau, S. C., & Petronelli, A. K. (2022). LGBTQ+ conversion therapy and applied behavior analysis: A call to action. *Journal of Applied Behavior Analysis* (55, 6-18).

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National Association of School Psychologists. (2019). Prejudice, Discrimination, and Racism. [Position Statement].

The Trevor Project. (2022). 2022 National Survey on LGBTQ Youth Mental Health. www.thetrevorproject.org/survey-2022/assets/static/trevor01_2022survey_final.pdf

United Nations Human Rights Council. 2020, Report on Conversion Therapy, <https://www.ohchr.org/en/calls-for-input/report-conversion-therapy>. Accessed 27 Jan. 2023.



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March 19, 2023

Re: HB 1333 – Relating to Restrictions on Adult-Oriented Performances

Dear Chairman Larson and members of the Senate Judiciary Committee,

My name is Kara Gloe. I am a mental health therapist licensed in both North Dakota and Minnesota. I work at Canopy Medical Clinic. Among the primary populations of people I serve, are LGBTQIA2S+ folks. As such, I am here today to talk about the discriminatory nature of this bill. It is a veiled attempt to push LGBTQIA2S+ people back into the closet. As such, I urge you to please vote **DO NOT PASS on HB 1333**. Drag is not inherently overtly sexual. Last summer, I took my two young children to their first all-ages drag show. What they saw, and I know because I asked, was people dancing, singing, enjoying themselves, and entertaining the crowd. What they saw was people living an aspect of their authentic lives. Certainly, there are times when drag performances are not suitable for all ages, just like there are concerts and bands that are not suitable for all ages. We do not try to criminalize live music. We expect parents to be responsible for gauging what is and is not appropriate for their children. Why are parents not given the same trust and respect when it comes to all-ages drag shows and children's drag story time, of which the programming is specifically created with children in mind? After all, the audience consideration is in the name.

Additionally, the language of this bill is vague and poorly written. Who decides what a "prurient" interest is? Does one have to receive money or be intentionally attempting to "entertain" while appearing to be a "male or female impersonator." Or is it enough to just be walking down the street while appearing to be a "male or female impersonator." How will we decide when someone is a "male or female impersonator" and not just wearing the clothes, makeup, hairstyles they prefer?

The assumption that drag is innately "prurient" is baseless, as drag performers have demonstrated they are perfectly capable of making age-appropriate content for specific audiences. Additionally, as there are so many aspects of this bill of which appear to be undefinable, it is clear the problem is not drag shows. If passed, this bill will send the message that North Dakota does not recognize the value of its LGBTQIA2S+ friends, family, and neighbors. It will increase minoritized stress. It will steal an avenue of authenticity for people, and will contribute nothing to the greater good.

Drag is widely accepted to be a form of self-expression, which means this law is likely to be constitutionally challenged as a violation of the First Amendment. This would mean North Dakotans would be on the hook for an expensive legal challenge, it does not seem likely to win. Drag is an art form. Drag is self-expression. You will not be able to legislate it away. It has already survived the closet. Continued attempts to legalize discrimination will only result in backlash and unintended consequences. Please vote ***DO NOT PASS on HB 1333.***

Sincerely,

Kara Gloe,
LMSW Canopy Medical Clinic

Chairperson Senator Diane Larson, members of the Senate Judiciary committee, I am Barry Nelson, here on behalf of the Fargo Human Rights Commission to testify regarding HB 1333, and I urge you to vote do not pass on this bill.

The Fargo Human Rights Commission consists of [eleven volunteer members](#) who are nominated by the Mayor and appointed by the City Commission. Each serves a three-year term. The Human Rights Commissioners represent a broad range of racial, religious, ethnic, social, economic, political and professional groups.

Our mission is: The Fargo Human Rights Commission provides leadership and education in areas of civil rights, to eliminate discrimination against persons because of color, creed, religion, national origin, age, sex, sexual orientation, gender identity, disability, or marital status. It encourages adherence to civil rights through education, conciliation, and mediation. It identifies human and civil rights-related concerns of the public and recommends policies to the board of city commissioners that protect and preserve individual rights.

At its February, 2023 commission meeting, the assembled commission members voted unanimously on a resolution standing in opposition to the numerous bills targeting our Transgender community.

Our opposition to these bills is based on two principles: 1) it is harming our kids, and 2) it is restricting our freedoms.

In support of principle number one, I cite the following: National research tells us that 75% of transgender youth feel unsafe at school and are more likely to miss school out of concern for their safety. The North Dakota Youth Risk Behavior Surveillance (YRBS) data from 2021 indicates that suicide ideation and attempts are disproportionately higher for LGBTQ. Evidence is as follows: middle school students who ever seriously considered suicide: straight – 22%; LGB – 65%; Transgender – 74.7%. Middle school students who have ever attempted suicide: straight – 7.5%; LGB – 29.3%; Transgender – 46.3%.

Passing bills that directly or indirectly target LGB and specifically Transgender students only enhance this environment by further targeting them within schools and community.

It is within the overall context of the numbers and breadth of bills being presented in this legislative body, that we stand in opposition to HB 1333.

This is a very poorly written bill, but it is clear, particularly in the context of the over 20 bills targeting the LGB and Transgender community, that this is another state sponsored attempt to erase, harass and terrorize an important part of our community.

Drag shows are not referenced specifically. “Male or female impersonators who provide entertainment” clearly does call out a form of entertainment, one that has been around for decades, or in one form or another, for hundreds of years. As far as we know, this form of entertainment has created no problems, law enforcement or otherwise. One has to guess that is violating some members of our community’s sense of decorum is the public offerings of all-age drag shows and drag show book reads for children. Parents we have talked to who have brought their children to these shows have not had one complaint.

So, question one is: what is the problem being addressed here that isn’t already being addressed by other laws?

We, members of the Fargo Human Rights Commission, reflect and represent the broad diversity of our larger community. It is a community that we embrace and celebrate. We stand for the dignity and rights of all our residents, regardless of color, creed, religion, national origin, age, sex, sexual orientation, gender identity, disability or marital status. We vigorously oppose any government overreach that would restrict and criminalize actions that are representations of people living their authentic selves.

This bill does not reflect the values of our community nor of our state.

Please vote no on HB1333.

Dear Chair Larson and members of the Sentate Judicairy Committee.

This is my testimony in opposition Bill 1333.

I ask that this bill not be passed. This bill is discriminatory and would be making the State of North Dakota fall backwards. House Bill 1333 is targeting drag performers in relation to performing in front of children and being inappropriate as it's "adult entertainment." However, as a drag performer, I know this to be farthest from the truth. At the shows I attend, I know with a 100% degree of certainty, when we do all age shows it is appropriate and we are creating a safe place for all members of the LGBTQIA+ community. We create a unique and safe environment for everyone to be who they are and be supported and loved for who they are. Nothing we do is inappropriate for children, but if that is a concern of yours, leave it to the businesses allowing the shows to happen on their premises and to the parents and families of those children. This bill will bring us back decades if it is to pass. We as a country have been entertained by drag for decades. Take Mrs. Doubtfire for example. Robin Williams is dressed in drag portraying and elderly woman, however that movie has been a family favorite for 2 or more decades.

If we are concerned about the children, why not focus on better mental health treatment and intervention and suicide prevention? Why not focus on better domestic violence prevention, health care programs, drug treatment programs, etc. Things that are actually a cause of concern in this state.

This bill is going to wreak havoc on the state, and it's going to be detrimental to an entire already marginalized community. Our country is already so divided and this bill is only going to further divide this state.

Please, while you are discussing this bill, remember that this negatively impacts and entire marginalized community that is already struggling to have representation.

Thank you for your consideration and understanding.

Parker Leigh

My name is Jodi Plecity and I am in support of HB 1333. We need to stop sexualizing and subjecting our little children to such nonsense. It is perverse and these types of shows have no positive benefit to the eyes of kids. By society allowing this to continue will only cause more harm if it's not stopped immediately. It should only be for adults if they choose. It crosses the line when children are subjected to these drag shows, and it is completely disgusting. Please pass this bill.

Thank you.

Jodi

**Senate Judiciary Committee
March 20th, 2023
HB 1333 - Testimony in Opposition**

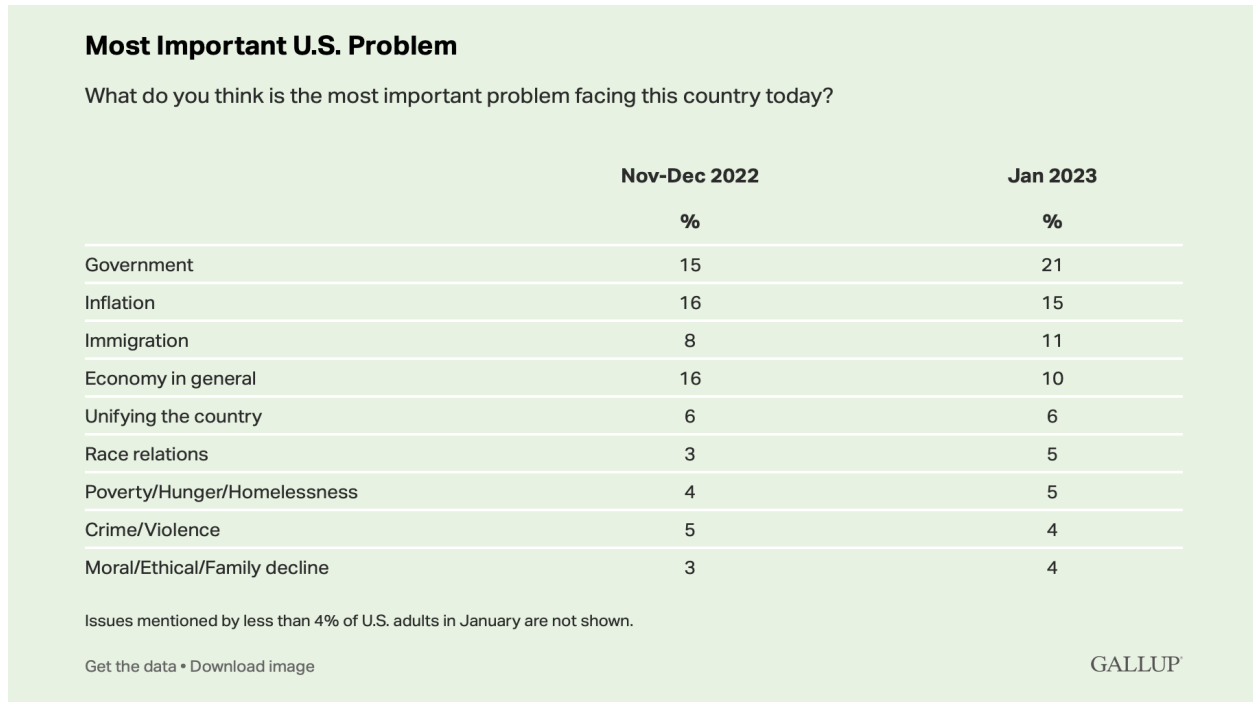
Dear Chair Larson and the members of the Senate Judiciary Committee,

My name is Shannon Krueger, District 3 resident, life-long North Dakota resident, educator, and mother; and I am writing in opposition of HB 1333.

According to a January 2023 Gallup poll, Americans rank the following as the top four problems in the US: Government, Inflation, Immigration, and the Economy. Drag Queens rank at...zero. Unless Drag Performance falls under the lowest-ranking category: Moral/Ethical/Family Decline. Morality and ethics seem to be in full force this legislative session. A small group of very vocal lawmakers is attempting to impose its morals on all ND residents in a feeble attempt to control the LGBT population. These lawmakers have very little insight into the true challenges faced by the LGBT community. Nor do they care. They choose to ignore the experts and rely on their own "opinions." They do not represent their constituents.

As a constituent, I would much rather see legislative efforts to address the major issues at hand.

Thank you.



<https://news.gallup.com/poll/468983/cite-gov-top-problem-inflation-ranks-second.aspx>

Senate Judiciary Committee
March 20th, 2023 HB 1333
Testimony in Opposition

Dear Chair Larson and the members of the Senate Judiciary Committee,

I urge a “Do Not Pass” on HB 1333.

Representative Prichard’s testimony included a number of recommendations that I would like to see added to this bill:

1. Concrete definitions for “topless dancers”, “exotic dancers”, “strippers”, or “male or female impersonators”
 - a. Topless Dancer - Does this include men? Nipple coverings? If we’ve determined trans women are biologically male where do they fit with this within considerations for topless dancing?
 - b. Exotic Dancer - I feel this is too vague, what is “exotic”?
 - c. Strippers - Include what level of removing clothing constitutes obscenity.
 - d. Male or Female Impersonators - Does this include cross dressing for reasons other than entertainment? Such as plays.
2. Who gets arrested? Rep. Prichard recommended the establishment owner in an effort to protect contractors and employees.
 - a. Would these laws impact a bachelor/ette party in a home with children?

Personally I recommend,

1. Change Male or Female Impersonators to “**anyone** who provides entertainment that appeals to a prurient interest.”

I realize this is more restrictive, but it would only be fair. That way men, women, and impersonators will be treated equally under the law. Otherwise, you could theoretically have a woman in a dress on a float twerking, next to a man in a dress on that same float twerking, but only one would be considered criminal. However, as sex stereotyping is strongly protected, I’m confused as to what clothes a man could wear that would constitute criminality, if they wore them without intent to impersonate sex. (Clarification of terms above would help this.)

I believe we’re all here to stop entertainment that appeals to a prurient interest and Rep. Prichard specifically noted “prurient performances by straight or gay performers.” There are, after all, women who dress up as drag queens. Which is why “impersonator” is too limited and virtually meaningless.

In line with HB 1256, it may also be worth including some punishment mechanism for someone who improperly accuses a show or individual of prurient behavior, if that accusation was made

to have no basis in fact or law. As that is not unlike accusing someone of sexual harassment. I believe that since Rep. Prichard did vote in favor of HB 1256, he would support this included amendment. While this is quite a lot to add, I believe if this bill is cleaned up, and includes these suggestions, I would recommend, "Do Pass."

Thank you for your time, consideration, and service to our state,
Faye Seidler



North Dakota House of Representatives

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COMMITTEES:
Human Services
Agriculture

House Bill 1333 Senate Judiciary Committee Senator Larson, Chairman March 20, 2023

Chairman Larson and members of the Senate Judiciary Committee,

My name is Rep. Brandon Prichard and I represent District 8 which covers all of Emmons County, rural and suburban portions of Burleigh County, and Wilton which is in McLean County. I am here to testify in support of HB 1333 which would prohibit children and minors from attending exotic and inappropriate in-person performances, called “adult cabaret performances.” North Dakota children should not be allowed into strip shows, in-person displays of exotic dancing, prurient performances by straight or gay performers, or any display in a similar, hypersexualized fashion.

HB 1333 would make it a criminal penalty to allow a minor to attend an adult cabaret performance with the first offense carrying a maximum of a Class A misdemeanor and the second offense carrying a maximum of a class C felony. If you are wondering the frequency of these types of events in North Dakota, you may be surprised to learn that events with a clear prurient interest occur often. One of the most notable examples is the Scarlet Vision Productions All-Ages Cabaret Show in Fargo, ND. These events have occurred throughout the last several years in Fargo with the goal of encouraging children to attend and participate in explicit actions.¹ Meanwhile, an annual cabaret show in Bismarck called “Just a Brunch for Kings and Queens” only increased its age limit from all-ages to 13+ after concerned constituents called the vendor and wrote letters to the editor in the Bismarck Tribune. This show was particularly problematic because it allowed a male performer under the age of 18 to dress in women’s clothing and dance in a hypersexualized manner.

In April of 2022, I attempted to shut down the all-ages cabaret show in Bismarck unless the group organizing the cabaret performance increased the age limit to 18 years and older. According to CC [12.1-27-02](#) and [12.1-27-03](#), it is a class C felony “for a person, knowing of its character, to recklessly promote to a minor any material or performance which is harmful to minors, or to admit a minor to premises where a performance harmful to minors is exhibited or takes place.” The definition of “harmful to minors” means “that quality of any description or representation, in whatever form of sexual conduct or sexual excitement, when such description or representation (1) considered as a whole, appeals to the prurient sexual interest of minors; (2) Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and (3) Considered as a whole, lacks serious literary, artistic, political, or scientific

¹ [Despite backlash, all-ages drag show in Fargo draws parents and kids - InForum | Fargo, Moorhead and West Fargo news, weather and sports](#)

value for minors." Despite a seemingly clear condemnation of cabaret shows, no criminal charges were pursued. These types of performances continue in Bismarck, Fargo, and other cities in North Dakota.

Therefore, this bill serves as clarification language that cabaret performances are meant for adults, not minors. I would like to suggest an amendment that the House Judiciary Committee missed. It would be advantageous to clarify that the penalty will only apply to the business organizing the event, not the dancers unless they are business partners in the operation. Contractors and employees should receive general protection from their employer's wrongdoing. I have attached the amendment on page 3.

I encourage the Judiciary Committee to support the effort to protect the innocent minds of children by clarifying that cabaret performances are only for adults. I respectfully ask for the committee to support HB 1333 by giving the bill a "Do Pass" recommendation.

Suggested Amendment

23.0375.03001
Title.

Prepared by the Legislative Council staff for
Representative Prichard
January 27, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

Page 1, line 14, replace "engages in" with "organizes"

Renumber accordingly

Appendix A

Child Hands Cash to Cabaret Performer During an Explicit Dance in Bismarck Show



Appendix B

Children Giving Money to a Cabaret Performer on the Capitol Grounds



Appendix C

Fargo Cabaret Performer Hugs Child Before Dancing Seductively and Thrusting the Air



Host and performer Tequila Mockingbird lets a young crowd member say a few words about being yourself during the all-ages "Can't Drag Us Down" drag show on July 16, 2022, outside the Elks Lodge in Fargo.
Alyssa Goelzer/The Forum

Explicit and seductive dancing is found in the video attached to the article (video time 1:12):

[Despite backlash, all-ages drag show in Fargo draws parents and kids - InForum | Fargo, Moorhead and West Fargo news, weather and sports](#)

Appendix D

Scarlet Vision Production Encourages "All Ages" to Attend the Performance

SCARLET VISION PRODUCTIONS PRESENTS...

Can't Drag Us Down!

7/16 • FARGO ELKS PARKING LOT
TICKET SALES START @7PM • SHOWTIME @8PM
\$15 FOR ADULTS • \$10 FOR 18 AND UNDER
ALL AGES

L. HIPSTER **TEQUILA MOCKINGBIRD** **JUST JEFF** **BJ ARMANI**

JARETH IDOL **JESSIKA FROM THE VOLLEYBALL TEAM** **MISS KITTY** **ASHER ALEXANDER**

CARLITA ASADA **MIKA SUPREME** **BROWN SHUGA**

Appendix E

Minor Between 15-17 Years Old Dances in Cabaret Performance in Bismarck

(Redacted in Public Version to Protect Minor's Identity)

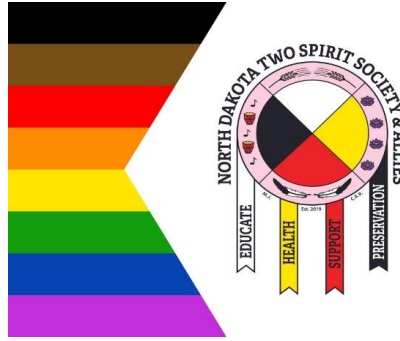
Appendix F

Cross-Dressing Performer Grooms 8-Year-Old Boy into Cabaret Performances



Video, view 3:40-4:25:

[Meet the 8-Year-Old Boy Who Transforms Into a Drag Queen Named Lactatia - YouTube](#)



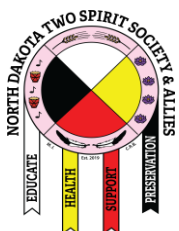
Testimony in Opposition of HB1333
Cardinal Red Bird, President
North Dakota Two Spirit Society and Allies
March 20th, 2023

My name is Cardinal Red Bird. I am the Founder and President of the North Dakota Two Spirit Society and Allies and we support cultural diversity. I oppose HB 1333. I am also a Two Spirit Elder from New Town, ND and an enrolled member of the Mandan Hidatsa and Arikara Nation of the Fort Berthold Reservation. My nationality is Mandan/Sisseton Sioux, and a member of the Water Buster clan. I currently reside in Bismarck, ND. In the Mandan language, the word Two Spirit is ‘Nii-Dii-Gah’. In the Hidatsa language that word is ‘Miatl’. In the Arikara language that word is ‘Squad’. If these words exist in our Native languages, it’s proven that the Two Spirit individuals existed as well.

I would like to share a brief history of what is Two Spirit. Under the Bureau of Indian Affairs, the Indian Health Services states that traditionally, Native American two-spirit people were male and female individuals who combined activities of both men and women with traits unique to their status as two-spirit people.¹ Before the Europeans came to this continent, the Two Spirit individual was respected as being a sacred being. In most cultures there was a puberty rite where a young individual moved from childhood into manhood. A lot of our indigenous tribes had this type of puberty ceremony. The medicine man or medicine woman of the village would take the individual out and away from the village and have them fast and pray for three days and three nights. Whatever vision they saw, they would tell the medicine leader. Some would possibly see a horse for livelihood, a buffalo for strength or a bear for swiftness. So, if a young man saw himself wearing a dress, or a young woman saw herself hunting with a bow and arrow – those were indications of being gay or lesbian. Those are of the terms we use today, but the villagers always respected the vision.

Two Spirit individuals also worked as matchmakers amongst their tribes or villages. If a young man had a hard time courting a young lady or young lady had a hard time courting a young man, it was a Two Spirit person that intervened and helped both. Two Spirit individuals also helped when times were tough. I’m going to use the example of the Two Spirit male. Not only was he comfortable and respected for wearing what he saw in his dream, but he also helped with the men. If there was buffalo hunting, helping to provide for the villagers or the elderly, he got out there and helped with the hunting. He wasn’t just wearing the women’s dress the whole time. The same applied for the Two Spirit females. She may be out there hunting for the villagers, but when it

¹ <https://www.ihs.gov/lgbt/health/twospirit/>



North Dakota Two Spirit Society & Allies

PO Box 1711
 Bismarck, ND 58502-1711

A Non-Profit Organization



email: nd2spiritsocietyandallies@gmail.com



came to help being the midwife or bringing a baby into the world, she had to do the part of what other women did as well.

In 1990, the Native gay and lesbians from Winnipeg, Canada came together with the intention of bringing back the Two Spirit individual. They realized that each indigenous culture has a word in their Native language that describes the Two Spirit individual. They had to come up with an English umbrella term to describe the different languages- Two Spirited was adopted.

Now we have the Two Spirit Societies forming across the nation- including our own Turtle Mountain Reservation, Florida, Texas, with Montana being the oldest in existence for 27 years. Some organizations host a Two Spirit Powwow where the men wear a woman's dancing regalia, and the women wear the men's dancing regalia. We hope to bring a Two Spirit powwow to North Dakota. With the way HB 1333 is written, this could be viewed as male or female impersonators providing entertainment, when in fact, it is part of our culture.

Growing up as a Two Spirited individual there was name calling and bullying. It took me a long time to build the strength within myself to even start the North Dakota Two Spirit Society and Allies. According to The Trevor Project, 21% of the Native/Indigenous LGBTQ+ Youth surveyed in 2022 attempted suicide, 55% considered suicide.² The current bill is simply another way to bully LGBTQ+ and Two Spirit Youth by suppressing their freedom of expression.

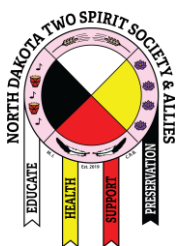
In 2013 Russia passed a gay propaganda law to protect their minors, which is similar to this bill - it intended to protect children from being exposed to content that portrays homosexuality being as a behavioral norm.³ Many of you sitting here are descendants of the German and/or Russian culture. Are we here in North Dakota going to follow in the footsteps of Vladimir Putin of Russia and the late Adolf Hitler of Germany?

In our Native American culture, Two Spirit people were respected as entertainers because they made people laugh during hard times. Male and female impersonators are not always lewd. Today, we need to understand the difference between lewd and cultural entertainment.

We all come from different cultural backgrounds. Let us come together as a bouquet of humanity in North Dakota!

² <https://www.thetrevorproject.org/survey-2022/#suicide-by-race>

³ <https://www.wilsoncenter.org/audio/kremlins-favorite-scapegoat-latest-attack-lgbtq-rights-russia>



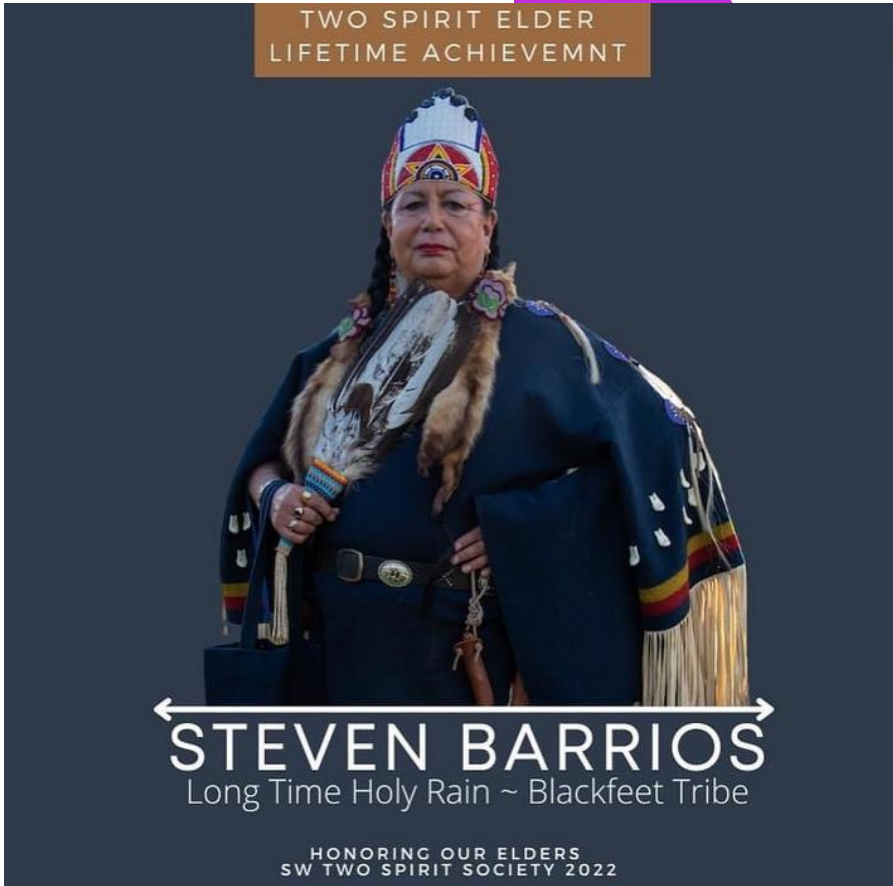
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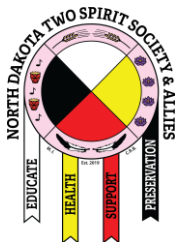
email: nd2spiritsocietyandallies@gmail.com



4

Founder of the Montana Two Spirit Society.

⁴ <https://www.mttwospirit.org/>



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NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony in Support of House Bill 1333

Jacob Thomsen, Policy Analyst
 North Dakota Family Alliance Legislative Action
 March 20, 2023

Good afternoon, Madam Chair Larson and honorable members of the Senate Judiciary Committee. My name is Jacob Thomsen, and I am representing North Dakota Family Alliance Legislative Action. We are testifying in support of House Bill 1333 and respectfully request that you issue a “DO PASS” on this bill.

This bill seeks to protect North Dakota children, plain and simple. From what? From performances that are not age appropriate. Performances where the focus is to expose children to topics of sexuality for which they are not ready. These kids should be playing with Legos and Matchbox Cars, making string art, and finger painting, not tipping drag performers with cash as they writhe in front of them (see Attachment A for a still shot of this situation captured on video at a Dallas drag show).

Under this bill, what happens to these types of performances in non-public spaces or that are not in direct sight of children? Nothing - that is not the purpose of this bill – no matter how much we may disagree with the values implicit in the shows and whether to attend them. Further, it is not a slippery slope either, as some might argue. Strip clubs, adult performance venues, and the like have been around virtually forever. It is the *pushing/expanding* of sexualized performances to *public* exposure that has precipitated this bill, not the private, existing ones.

North Dakota lawmakers are not prone to put laws in place for things that are not already a problem in their state, and there are often sensible reasons for this. But in this case, it has happened. On June 18, 2022, there was a drag queen show on the grounds of the Capitol, right here, called *Pride on the North Dakota Capitol Lawn* (there were similar events in previous years). It featured drag queens, sidewalk art, music, and face painting. Further, they explicitly stated, “Event is FREE and All Ages Welcome!”¹ Surprised? Nearly every North Dakotan I’ve told about this is shocked and appalled. This is obviously not merely aimed at adults, but clearly also at children, with the goal of grooming them and numbing them to this over-sexualization.

¹ <https://dakotaoutright.org/capital-pride/>



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

As one article on the subject succinctly put it, “A child is not a prop to be used for political statements or for showing off that one is open-minded and “hip.”²

You may hear testimony today about freedom of expression, homophobia, and the like, but it really comes down to this. On that sunny June day last year, would you have been OK with your child or grandchild standing and watching that performance on the Capitol lawn? That’s what this is about.

Those are some of the reasons that we at North Dakota Family Alliance Legislative Action respectfully request that you vote HB 1333 out of committee with a “DO PASS” recommendation.

Thank you for allowing me to testify, and I’d now be happy to stand for any questions

² <https://www.washingtonexaminer.com/restoring-america/community-family/why-drag-queen-performances-are-not-appropriate-for-children>

Attachment A: Drag Show in Dallas, Texas



Source: <https://www.nbcnews.com/nbc-out/out-politics-and-policy/texas-lawmaker-proposes-ban-minors-watching-drag-shows-rcna32183>



HB 1333

March 20th, 2023

Grace Reep, North Dakota Student Association

307-254-8264 | grace.reep@ndus.edu

Celeste McCash, North Dakota Student Association

701-270-2419 | Konrad.mccash@ndus.edu

Chairman Larson and Members of the Committee: My name is Celeste McCash, and I am the Head Delegate for Lake Region State College with the North Dakota Student Association. I am here today in opposition to HB 1333.

The North Dakota Student Association is dedicated to ensuring that students have a voice at the table in policy that affects higher education. We consist of delegates from each of the 11 public North Dakota University System (NDUS) institutions, meeting monthly to engage students in discussions about North Dakota higher education policy. Since 1969, our mission has been to empower students, create collaboration between the North Dakota public universities' student bodies, and provide a student perspective on higher education policy.

The NDSA has historically supported protecting LGBTQIA2S+ students across the NDUS, and this bill erodes the culture of acceptance within the state. In 2022, the NDSA passed resolution [NDSA-09-2223](#), which looked at the NDSA's legislative priorities going into the 23-25 biennium. One of the six legislative priorities that were passed with this resolution was that of protecting the rights of NDUS LGBTQIA2S+ students, which is the reason the NDSA is seeking a **Do Not Pass** on HB 1333 **OR** the exemption of college campuses under the reasonable assumption or requirement that minors are not present at college events hosted for college students.

The vagueness of this bill is of significant concern. The question of who would determine what is and is not considered to be prurient and how that would affect the entire theater system of the state. Many artistic venues, such as The Kennedy Center American College Theater Festival, currently hold shows that would be condemned and fall under the jurisdiction of this bill. North Dakota is part of region 5 in KCACTF alongside Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota. Each year, a week-long theater festival is hosted in one of the states in region 5. With the outcome of HB 1333, KCACTF would refuse to consider North Dakota as an option for hosting. Adopting the bill would harm artistic freedom and the state's overall economic welfare, and it would be detrimental for North Dakota to pass HB 1333.

There is also an overarching idea presented within this bill that, whether it is or is not intended, drag shows appeal to a prurient interest. As with every type of art, drag shows can be planned for a mature audience, but those are advertised as 18 and up shows, much like how a movie can be rated R if it is not content suitable for minors. The origins of drag shows have their source as far back as Ancient Greek, if not to the 18th and 19th centuries. Drag was done to fill the roles of women not being allowed to perform in Ancient Greece and to provide comedy and entertainment in the 18th and 19th centuries. Drag shows only came to be seen as sexual when it was oppressed under anti-LGBTs in the 20th century. Drag shows were welcomed by the LGBTQIA2S+ community and allowed to perform in their nightclubs. To include drag shows along the same lines of intentionally sexual content is a fundamental misunderstanding of the performance art of drag and a disastrous repeat of regressive 20th-century policy.

HB 1333 only has one outcome for North Dakota: economic losses. Individuals that are a part of the LGBTQIA2S+ community and their families will not consider moving to or continuing to live in our state. The bill will exacerbate the issue of retaining students after completing their higher education, with many seeking a welcoming environment elsewhere. This bill, if passed, will dissuade many potential students from attending an NDUS institution. HB 1333 will damage retention rates of students in the state and prevent entirely out-of-state potential from filling the growing gap.

Freedom of speech includes freedom of expression, something that would be withered with the passing of HB 1333. The 11 institutions included in the NDUS may see a decline in artistic expression and, as a result, in students wishing to come to any North Dakota institution for their

education. This bill is oppressive, deliberately harms the LGBTQIA2S+ community of North Dakota, and denies potential venues and economic opportunities from participating in the state.

Good day Members of the Senate Judiciary Committee,

I am submitting testimony today in support of HB 1333. We need to protect our children from these confusing provocative displays. These men dressed as scantily dressed women is dancing seductively on stage is no different than what goes on at a “strip club, gentleman’s club, or a show girls performance”.

Minors are being exposed to adult entertainment featuring provocative performers with sexualized names and costumes and, in many cases encouraging to hand tips to the performers.

Exposing minors to drag queens as a way to teach kids to be kind and inclusive is merely a marketing strategy by activists. Instead, introducing children to drag is about teaching kids to “Live queerly”. There is no innocent, non-predatory reason for a man to dress as a woman in a sexually provocative costume and dance in front of children and teens. We must guard our youth’s innocence and protect them from this sexual and ideological grooming.

Resources

[Taxpayer-Funded Tennessee Performing Arts Center Hosted ‘All Ages’ Drag Christmas Show As Republicans Propose Banning Similar Events](#)

[Queer Theory is Queer Marxism](#)

[Drag Queen Story Hour](#)

[Drag pedagogy: The playful practice of queer imagination in early childhood](#)

Thank You,

Cionda Holter

District 3

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[Queer Theory is Queer Marxism](#)

[Drag Queen Story Hour](#)

[Drag pedagogy: The playful practice of queer imagination in early childhood](#)

Thank You,

Jacob Holter

District 3

Senate Judiciary

HB 1333

Monday, March 20, 2023

IN OPPOSITION

Committee Chair and members of the Committee, my name is Audin Rhodes (legally Allison Joyce Rhodes, maiden name Allison Joyce Walker) and I am writing in opposition to HB 1333.

I am a concerned civilian who was born and raised in North Dakota. I am a family services case manager at a statewide organization that helps lower income people receive services to better their lives and families. I am here of my own volition due to the extremely personal stake I have in this legislature. I grew up in the small town of Velva, ND and am now living in Minot, ND. For nearly 30 years I've been here and for well over half my life I've known I was queer.

Growing up in North Dakota did not allow me to easily find the language I needed to express and define myself. Even so, I knew I was different in a queer and gender non-conforming way from a young age. I did not meet an openly trans person until I was in my early 20s and meeting them changed my life. Seeing them live their truth opened my future up to one of joy, clarity, and acceptance instead of denial, confusion, and apathy. Coming into my trans identity feels like coming home. It feels right.

Likewise, I did not attend my first drag performance until I was in my early 20s. However, I wish that an opportunity had been presented to me to see a drag performance in my younger years because I firmly believe it would have helped alleviate some of the confusion and misery within me regarding my gender non-conformity. Representation is crucial to self-acceptance. Seeing someone like oneself, openly flourishing and being themselves is not only inspiring, it is life saving.

From a developmental standpoint, kids have a very fluid understanding of gender. It is really important to have healthy conversations that are developmentally appropriate about gender roles and gender expression being part of art. Drag can help facilitate these conversations. Drag is not a crime and drag is not inappropriate. It is performance, it is comedy, it is art, it is poetry, it is human expression. It is no more or less appropriate than pop star performances from Christina Aguilera and Ariana Grande. Children are allowed to go to those performances based on parental consent and the same principle should be applied to drag performances.

The drag community has long had overlap with gay, trans, non-binary, and gender non-conforming identities. Drag is undoubtedly a queer art form but that does not make it obscene. By considering criminal action against drag, the state is making it's position clear that it views it's LGBTQIA+ residents as inappropriate and vulgar. That is harmful and dangerous rhetoric to promote. As a community, we are as diverse as any other group of people living in North Dakota. We are social workers, teachers, veterans, small business owners, republicans, democrats, Christians, mothers, fathers, siblings, and tax paying Americans. We are here and we deserve the

same freedom of expression as anyone else. And we deserve to show our children our art and our history, the same right that any other family has been allowed.

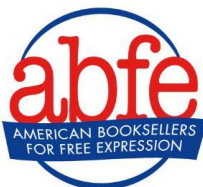
There is no harm in allowing people to live life as their most authentic selves. It costs you nothing to be kind. It costs you nothing to see our shared humanity. That is why I am in strong opposition of HB 1333.

Thank you for reading my testimony. Your consideration of my perspective and the other perspectives of the trans, queer, and gender non-conforming LBTQIA+ community is very much appreciated.

Audin Rhodes

Ajdubz379@gmail.com

#701-389-0910



March 20, 2023

Dear Chair Larsen and members of the committee:

On behalf of American Booksellers for Free Expression (ABFE), the free speech initiative of the American Booksellers Association – the not-for-profit trade association of independent bookstores across the country, including North Dakota – we are writing today on behalf of North Dakota booksellers to express their opposition to HB 1333.

HB 1333 criminalizes drag performances. The bill stipulates that “male or female impersonators who provide entertainment appealing to a prurient interest,” in a location where the performance is in the presence of a minor, would be guilty of a Class A misdemeanor for a first offense. Subsequent offenses would be a class C felony. The bill also fails to define “prurient interest,” as this term could have different meanings for different people.

Bookstores are a crucial part of the fabric of its community and a hub for the very American ideal of free expression. The shelves of bookstores contain a wide and countless array of voices and stories, and a book that one customer may find objectionable, another customer may deem to be a classic, and vice versa. The events at the bookstore mirror this conviction to free expression and diversity.

If this bill were to become law, it would have a chilling effect on the bookstore’s business. If a bookstore were to feature a reading or an appearance by authors such as actor and TV Star RuPaul or Dame Edna, the character created and performed by Australian comedian Barry Humphrie, where a minor was present, the bookstore could run afoul of the law.

On behalf of North Dakota booksellers, we oppose this bill as it would threaten many bookstores with making a choice between turning away authors or turning away customers.

I appreciate the opportunity to share our concerns with the committee.

Sincerely,

David Grogan, Director
American Booksellers for Free Expression, Advocacy & Public Policy
American Booksellers Association
333 Westchester Ave, S202
White Plains, NY 10604



March 20, 2023
Memorandum in Opposition to House Bill 1333
Senate Judiciary Committee
Jeff Trexler, Interim Director
Comic Book Legal Defense Fund
jeff.trexler@cbldf.org

Madam Chairman Larson and members of the Senate Judiciary Committee, thank you for considering our testimony regarding House Bill 1333. All of us at the Comic Book Legal Defense Fund share your commitment to protecting the youth of North Dakota, whatever our differences may be as to the wisdom of enacting this specific legislation.

Many of our legal objections to H.B. 1333 have already been expressed in others' testimony, most notably that of the Media Coalition, of which the CBLDF is a member. Rather than repeat those arguments in full, this memo incorporates by reference the attached Media Coalition testimony submitted by David Horowitz on March 20, 2023, and instead focuses on concerns of particular relevance to the CBLDF community in North Dakota.

In brief, by removing the requirements for an illegal performance to be patently offensive and to lack serious literary, artistic, political, or scientific value, H.B. 1333 is unconstitutionally vague and overbroad in ways that will harm North Dakota's cosplay communities, pop-culture conventions, and performances in virtual media.

Impact on cosplay and conventions

One harmful effect of H.B. 1333 is its evident potential for criminalizing constitutionally protected expression through creative personal attire. If you attend any of the state's conventions for fans of comics, manga, animé, scifi, and games, you'll see people dressed as their favorite characters – a popular form of self-expression called cosplay.

North Dakota has multiple pop-culture conventions throughout the year with a vibrant cosplay community. In addition to providing attendees a place to wear stylized costumes while connecting with others who have similar interests, conventions typically host cosplay contests, traditionally referred to as masquerades, in which cosplayers go on a stage to show off their creations before an appreciative audience through poses, dances, and skits. These contests would arguably meet the statutory definition of a performance under paragraph 9 of Section 12.1-27.1 of the North Dakota Century Code, the statute being amended by H.B. 1333.

An especially prominent trend in recent years has been the normalization of gender-swapped cosplay. This can entail an individual portraying a character as having a different gender from that character's canonical depiction or the gender of the cosplayer. The reasons for this can vary: sometimes a cosplayer wants to challenge traditional gender norms – constitutionally protected expression, regardless of what some advocates of this legislation contend – but often it's simply the case that the cosplayer is a fan of a particular character. Batman is not Batwoman, who has her own origin, personality, friends, and villains; wanting to dress as one's favorite hero should not put a cosplayer in jeopardy of being branded a sex criminal.

Nonetheless, H.B. 1333 would make cosplayers feel at risk if they wear anything short of a full-body covering when not conforming to others' gender stereotypes. Their rational fear: that a skin-tight or revealing costume designed to be an expressive variation on a particular character could be unjustly dismissed as appealing to a prurient interest, with no regard to the costume's significance as an adaptation of literary material, a creative work of art, a feat of engineering, or social commentary. The prevailing norm at conventions is not to reduce cosplayers to sex objects, but H.B. 1333 would treat them as just that.

In addition, were H.B. 1333 to become law, prosecuting cosplay could raise questions about the bill's own underlying rationality. For example, how should we characterize cosplay that gender-swaps a character but seems consistent with the wearer's sex under North Dakota law? If a male character typically wears short skirts in a fictional comic-book reality, could a woman wearing that character's costume be convicted for impersonating a man? Would someone wearing the costume of a transgender character be impersonating a man or a woman? Legally, what is the gender of a cosplayed elf, robot, space alien, or genital-free Ken doll, all of which I've seen cosplayed any number of times? And how would it be consistent with fundamental principles of U.S. civil rights law for a man to be imprisoned for wearing the same sexually alluring Catwoman costume that a woman could wear without penalty?

Making North Dakota unsafe for cosplay would not just curb constitutionally protected expression; it would also hurt the state's economy. Pop-culture conventions are big business, in large part because of the opportunities they provide individual entrepreneurs and small businesses to make a living from their fandom. A number of cosplayers have gone on to be make-up artists, hair stylists, and fashion designers – some have even become professional cosplayers who earn money by appearing as the characters they love. Moreover, cosplay and conventions have economic benefits for an extensive ecosystem of vendors: hotels, meeting venues, sign printers, craft shops, cosmetics stores, and area restaurants are just a few of those who generate significant revenue from fan culture. Putting this all at risk because someone

chooses not to dress according to another person's gender stereotypes would hurt local communities, not protect them.

Impact on virtual performances

Beyond in-person performances, H.B. 1333 also has the potential to extend to constitutionally protected virtual performances. As Marshall McLuhan correctly predicted, digital communication has created a global proscenium arch – all the world is now a virtual stage in which the people of North Dakota are players. Every day your constituents are performing through their avatars for a wide array of audiences: doing a victory dance before a crowd in Fortnite; singing to a crowd of thousands in a three-dimensional theater on the Meta Quest; broadcasting livestreams on Twitch; and even playing varsity e-sports for the University of North Dakota.

In this media environment, H.B. 1333 has the potential to criminalize gender non-conforming digital expression everywhere from a private home to a public stadium. It is not at all uncommon for a player to create a digital avatar whose sex is not the same as what is on that person's birth certificate, and it is all but impossible to know the age of everyone in the audience who might see one's avatar. Moreover, no one online can ever be sure whether a viewer might find a costume too revealing, song lyrics too suggestive, or actions too provocative. Perhaps the only thing of which we can be certain is that most of these virtual performances take place outside of adult cabarets.

As with gender-swapped cosplay performances, the unconstitutionally vague and overbroad standard in H.B. 1333 would harm constitutionally protected virtual expression. I respectfully recommend that the Senate Judiciary Committee not pass this bill.



THE MEDIA COALITION

DEFENDING THE FIRST AMENDMENT SINCE 1973

American Booksellers Association Association of American Publishers Authors Guild Comic Book Legal Defense Fund
Entertainment Software Association Freedom to Read Foundation Motion Picture Association

Memo in Opposition to North Dakota House Bill 1333

We oppose North Dakota House Bill 1333 because we believe it violates the First Amendment rights of retailers and other businesses. The trade associations and organizations that comprise Media Coalition have many members throughout the country, including North Dakota: authors, publishers, booksellers and librarians, producers and retailers of films, home video and video games. They have asked me to explain their concerns.

Summary of the bill

H.B. 1333 would make it a crime to engage in a performance in a location other than an adult cabaret that features male or female impersonators who provide entertainment that appeals to a “prurient interest” if the performance is given in the presence of a minor or on public property. “Prurient interest” is not defined in the bill or by reference to an existing statute.

A first violation is a misdemeanor, and a second violation is a felony. Booksellers, theater owners and other businesses may be guilty of aiding and abetting a such a performance for hosting or organizing a drag performance.

The bill threatens booksellers and other retailers who host in-store events for notable authors such as RuPaul or who may invite entertainers to draw customers such as a female Elvis impersonator. It would also bar a theater from staging performances of many notable plays that have actors playing members of the opposite sex.

Unconstitutional restriction on speech

The bill is unconstitutional because it makes it a crime to allow a minor to see a reading, monologue, play or other performance by a male or female impersonator if it appeals to a prurient interest. The performance certainly is not limited to sexual content that is illegal for minors. In fact, nothing in the bill limits it to a performance that has salacious elements or dialogue. Therefore, the bill criminalizes speech beyond what the U.S. Supreme Court has said can be deemed to be illegal for minors. While minors do not enjoy the protection of the First Amendment to the same extent as adults, the Supreme Court has ruled that “minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected material to them.” *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 212-13 (1975). See also, *Brown v. Entertainment Merch’s. Ass’n*, 564 U.S. 786 (2011).

Even if the bill was limited to drag performances that appealed to a prurient interest in sex, it would still be unconstitutional because it is not limited to sexual speech that the Supreme Court says may be made illegal for minors. The contours for what speech could be barred for minors

Executive Director: David Horowitz **General Counsel:** Michael A. Bamberger, Dentons US LLP

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were established in *Ginsberg v. New York*, 390 U.S. 629 (1968), and subsequently modified by *Miller v. California*, 413 U.S. 15 (1973). Chief Justice Berger wrote in *Miller*:

“[W]e now confine the permissible scope of such regulation to works which depict or describe sexual conduct. That conduct must be specifically defined by the applicable state law, as written or authoritatively construed. A state offense must also be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value.

Id., at 24. It is generally accepted that this test for obscenity for adults modified the existing test for material harmful to minors. Under that test, in order for sexually explicit material to fall outside the First Amendment as to a minor, it must, when taken as a whole:

1. predominantly appeal to the prurient, shameful or morbid interest of minors in sex;
2. be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
3. lack serious literary, artistic, political or scientific value for minors.

Governments may restrict access to sexually explicit speech for minors up to what is permitted under the test, but they cannot go beyond this narrow range of material as defined in *Ginsberg* and modified by *Miller*. The Supreme Court has given states no leeway in altering the specific language in the tests for “obscenity” or “harmful to minors.” In *Miller*, Chief Justice Berger emphasized that any state law regulating obscenity “must be carefully limited” to avoid “the inherent dangers” of criminalizing speech. *Id.*, at 23-24.

The Supreme Court has repeatedly rejected attempts to restrict minors’ access to sexual speech that was broader than what is allowed under the *Miller/Ginsberg* test. In *Reno v. American Civil Liberties Union*, the Supreme Court struck down a federal law that barred dissemination of “any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication.” 521 U.S. 844 (1997). The Court dismissed the government’s argument that it could bar this speech under the *Ginsberg* precedent. *Id.*, at 865. See also, *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 127 (1989) (struck down a law barring indecent content rather than content that is harmful to minors under the *Miller/Ginsberg* test); *Erznoznik* 422 U.S. at 213-14 (striking down a law barring minors from accessing material containing nudity without any of the prongs from the *Miller/Ginsberg* test); *Powell’s Books v. Kroger*, 622 F.3d 1202, 1213 (9th Cir. 2010) (blocking enforcement of an Oregon law barring sexual speech for minors that did not comply with the *Miller/Ginsberg* test); *Entertainment Software Ass’n v. Blagojevich*, 469 F.3d 642 (7th Cir. 2006) *aff’g* 404 F. Supp. 2d 1051 (N.D. Ill. 2005) (permanently blocking an Illinois law that barred the sale of sexual material to minors but omitted the serious value prong of the *Miller/Ginsberg* test).

H.B. 1333 is also unconstitutionally vague. The lack of definition of “prurient interest” leaves the term open-ended with no guidance for how to comply with the law. There is not limitation as to what the prurient interest is in or who judges whether the interest is prurient. It is well established that any law must be sufficiently clear to be understood by the common person. In *Coates v. Cincinnati*, the Supreme Court struck down a law barring congregating on a public sidewalk if it would “annoy” others. 402 U.S. 611 (1971). The Court held, “[T]his ordinance is unconstitutionally vague because it subjects the exercise of the right of assembly to an unascertainable standard, and unconstitutionally broad because it authorizes the punishment of constitutionally protected conduct.” *Id.*, at 614. The requirement of clarity in the law is especially stringent when a law infringes on First Amendment rights. See *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982); *Keyishian v. Bd. of Regents*, 385 U.S. 589, 604 (1967) (quoting *NAACP v. Button*, 371 U.S. 415, 432-33 (1963)) (“Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity.”). The lack of a clear definition is especially worrying in the current climate when some believe that any performance by a male or female impersonator is prurient.

We understand that booksellers and similar retailers may not be the target for this legislation. However, the constitutional infirmities of the bill cannot be saved by a promise by legislators or prosecutors that the statute would be construed narrowly. As the Supreme Court wrote in *U.S. v. Stevens*, “[T]he First Amendment protects against the Government; it does not leave us at the mercy of noblesse oblige. We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly.” 559 U.S. 460, 480 (2010).

Passage of this bill could prove costly. If a court declares it unconstitutional, there is a good possibility that the state will be ordered to pay the plaintiffs’ attorney’s fees. In *Powell’s Books v. Kroger*, a challenge an Oregon law that did not comply with the *Miller/Ginsberg test* and brought by members of Media Coalition, the state of Oregon agreed to pay plaintiffs more than \$200,000 in legal fees.

Again, we oppose H.B. 1333 because we believe it violates the constitutional rights of booksellers and other businesses that host or disseminate First Amendment protected material. We would welcome the opportunity to discuss these concerns further. If you would like to do so, please contact our Executive Director David Horowitz at horowitz@mediacoalition.org or by phone at 212-587-4025. We ask you to protect the First Amendment rights of retailers and all the people of North Dakota and amend or defeat H.B. 1333.

Dear ND Legislature,


I am writing to oppose HB1333.

It wrongfully removes local control over zoning and community standards, putting them into the hands of the state. It also obviously assumes an exclusively sexual nature in male or female impersonation performances when that is not the intention of such performances and, using this false assumption, would constrain the self-expression that is fundamental to free speech guaranteed in the First Amendment to the U.S. Constitution.

I am also very concerned about how various words in the bill will be interpreted. If I, as a person born as a woman, wear pants in public, will I be arrested for wearing the traditional clothing of the male sex? If a person who was born as a man wears a kilt in public, will he be arrested?

I hope the Legislature will see the serious problems with this bill and vote No on it. Thank you for your time.

--Barbara A Dunn
Fargo, ND



TESTIMONY on HB 1333
from the
NATIONAL ASSOCIATION OF SOCIAL WORKERS—NORTH DAKOTA CHAPTER
to the
ND Senate Judiciary Committee
March 20, 2023

Chairperson Larson and members of the Senate Judiciary Committee:

The Advocacy Committee of the NASW-ND submits this testimony in opposition to House Bill 1333. We appreciate the opportunity to share our perspective.

NASW-ND urges the members of the House Human Services Committee to vote DO NOT PASS on HB 1333 for the following reasons:

1. HB 1333 restricts freedom of expression.

Section 1, point 1 (p1 lines 9-12) defines an “adult cabaret performance” as male or female impersonators providing entertainment that appeals to a **prurient interest**. A prurient interest is defined by thoughts and desires. This bill seeks to criminalize one individual’s behavior based on another individual’s perceived thoughts and desires.

The First Amendment to the Constitution protects freedom of speech and assembly. The Fourteenth Amendment to the Constitution protects freedom of expression. If this legislature approves this bill, it *will* go to the higher courts, which seems like a gross misuse of taxpayer dollars.

The National Association of Social Workers (NASW) Code of Ethics 1.02 instructs social workers to respect and promote the right of clients to self-determination. The only circumstance in which a social worker would violate that commitment is if the client poses a serious, foreseeable, and imminent threat to themselves or others. Although some on this committee may not approve of minors attending a drag show, there is no substantiated claim of a crime against a minor or adult at a drag show.

2. HB 1333 preys on marginalized communities.

Some claim drag traces its roots to the age of William Shakespeare when female roles were performed by men, but this bill is clearly targeted at the LGBTQ community. Attending a drag show or speaking to someone about the performance will reveal these shows are largely not sexual in nature. Women in drag typically dress in more, rather than less, clothing than you would see on a typical American woman on a public beach or network TV. Drag shows are self-expression, art, and an escape for a community that has been historically marginalized and oppressed.

This community is already at high risk for violence against them, and suicide ideation and completion, as this board has heard through numerous testimonies during this legislative session. This bill will further stigmatize a community that already feels unwelcome in this state. We urge you to not enhance this notion.

Thank you for the opportunity to share our objections to this bill, and the **NASW-ND respectfully urges the Senate Human Services Committee to vote DO NOT PASS on HB 1333.**

Submitted by:

Elizabeth Loos
NASW-ND Lobbyist

HB 1333

Rep. Prichard, Sen. Estenson, Rep. Frelich, Rep. Klemin, Rep. Koppelman, Rep. Marschall, Rep. Motschenbacher, Rep. D. Ruby, Rep. Tveit, Rep. VanWinkle

68th legislative assembly

Peace Garden Room

3/20/2023

2:30 pm

HB 1333

IN OPPOSITION

Introduction

My name is Stephen DeMarco. My drag performer persona is Robyn Spotlight. I am testifying against your bill to restrict drag performances.

As a performer and a father, I strongly urge you to change your standing. My daughter has never had the opportunity to see me perform at an all ages show. If this bill passes, she never will. I have taken her to an all ages drag show. Every single song and outfit was specifically tailor to meet the need of the audience. My child is very supportive of me and I wouldn't dare take her to an adult show because that's recklessly irresponsible of me as a father. You cannot assume we are all just animals that do as we please. We are entertainers, so we absolutely have to be aware of who is in the crowd.

I understand that drag is something that scares people. It's taboo to a lot of people and it can be frightening to those that don't understand. But therein lies my point. How can a ruling be made on a matter you have no experience with? On that statement, how can you call this the "Peace Garden State" when peace is all inclusive? You seek to exclude a large group of people that pay your taxes but treat us like trash. I cannot see a logical reasoning for bills like this other than a "we don't want you in our club because we don't like you" mentality, except on a larger and much more violent scale.

The people I know and the people I've performed with know it's only a matter of time before you ban drag shows altogether. It's already happened elsewhere in the country and we all know this would be your ideal setting.

Honestly, a lot of us would love to spend time with children and share their joy, because just about all of the queer community never got to enjoy their childhood due to the thought process behind bills like this. You can write me off as someone else complain from the community, I don't care.

The LGBTQIA+ does not want to hurt your children. They want to help them experience a life that they never had.

Stephen DeMarco
stevie3679@gmail.com
(609) 892-7831

I am in strong opposition to this bill. The vague wording allows for the persecution, discrimination, and "eradication" of the transgender individual in any and all public settings, regardless of the activity of the accused. Being transgender in north dakota is a gamble everytime i walk out the door. The current disinformation and misleading narrative calling all queer people and their allies groomers and pedophiles is disgusting and bills like this will, very intentionally, promote hate towards all people in the queer community. The potential for detainment by law enforcement for just going out and dancing at a bar, singing, performing in any way in any public arena, private property space, or even one's own back yard, and be viewed in anyones opinion as 'prurient' is absurd on the face. The level of fear and minority stress this body is projecting on all of us and our allies, neighbors, family members, coworkers, and friends is shameful. i urge you not to pass this bill out of committee, the unforeseen consequences of this bill are so blatantly obvious, the amount of litigation that will ensue to fight these charges on an individual basis, and the neglected peripheral implications that will result from these pieces of legislation show the lack of forethought put into these bills even by the legislators who brought them to the agenda from an out of state conservative theocratic fascist organization.

Gordon Greenstein

District 35, Bismarck, ND

Senate Judiciary Committee, I urge a Do Pass on HB 1333. Here is a widespread attempt to normalize so-called 'family friendly drag shows' across the country, including right here in North Dakota. Minors are being exposed to adult entertainment featuring provocative performers with sexualized names and costumes and, in many cases, encouraged to hand tips to the performers.

Exposing minors to drag queens as a way to teach kids to be kind and inclusive is merely a marketing strategy by activists. Instead, introducing children to drag is about teaching kids how to "live queerly". There is no innocent, non-predatory reason for a man to dress as a woman in a sexually provocative costume and dance in front of children and teens. We must guard our youth's innocence and protect them from this sexual and ideological grooming. Do Pass on HB 1333

Thank You, Gordon Greenstein

US navy (Veteran)

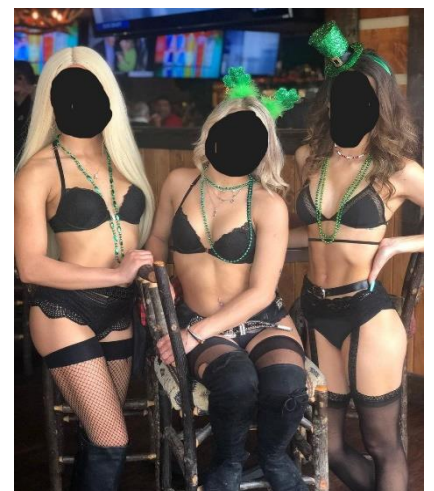
US Army (NDNG Retired)

DO NOT PASS HB 1333

Dear Chair Lee and members of the Senate Human Services Committee. I am writing to you today to urge you to recommend a DO NOT PASS on HB 1333. The sponsors of this bill would like you to believe that drag performers are sexual deviants, working to corrupt the lives and minds of youth. That drag performers want to infect cis kids with the germ of queerness ensuring that children follow their queer ways. This of course is a tale made up to spread fear, and stoke misinformation in those that are eager to pick up a juicy storyline from conservative media. Representative Pritchard is woefully misinformed and even worse, chooses to carry harmful mistruths about queer people and drag performers to anyone that will listen.

My concern about the enactment of this bill is that queer people will be arrested for walking down the streets, dancing in local parks, or for just being themselves in front of the wrong person. This bill harkens back to 1930's Germany; arresting those who go against the scripted and made up views of the loudest speakers. Trans and queer people are scared, they do not know what the future holds for them in North Dakota, and if they will be safe here. It seems the sponsors of this bill are hoping queer and trans people are legislated so deeply that they cannot live publicly in the state anymore. Why would anyone want to live in a state like that?

We have a restaurant in Fargo called Twin Peaks; scantily clad women serving food in a "family" atmosphere. "The second you step inside, you're surrounded by a lodge full of friendly and attentive Twin Peaks Girls serving up scratch food", "only here you can truly embrace the Lodge *Mentality*." "Our Twin Peaks Girls are the essential ingredient to the perfect lodge experience. They are the beautiful faces that represent the brand and the reason our customers consistently come back for more". See photos below (Out of respect, I have blurred their faces):



Now, this establishment allows minors entry; these women arguably wear less than the queens and kings at a drag show, but the larger community is fine with this display of vulgarity. To me, this is overtly sexual, and minors have no business being in this environment. But again this is my opinion, and my opinion is subjective; as is this bill.

Unlike the women pictured above, drag performers work for the love of their art. They perform songs and skits and are there to entertain a crowd. There is no nefarious or harmful undertones to their performance, they are there to entertain. What is the purpose of the Twin Peaks Girls? Objectification and pleasure of the male gaze is my guess, I have trouble coming up with anything else. If this bill passes, will these girls be subjected to its restraints? If not, then why?

Again, I urge a DO NOT PASS on this bill. This bill does nothing to push our state forward, and is only designed to push queer folk back into the shadows. We cannot allow this to happen in 2023. We cannot legislate away people we do not understand or agree with.

Thank you

HB 1333

My testimony is in opposition to HB 1333 and I ask that you give this bill a Do NOT Pass.

This bill is harmful to many individuals including the state of North Dakota. What this bill is telling individuals who identify as LGBTQIA+ is that you are not wanted here. What this means for the state is that many LGBTQIA+ businesses that help support your economy, will leave because you decided to show that you do not care about us. Our local drag queens help raise money for the community and to take away from that is to take away from all those organizations who receive that money.

This bill will also prevent LGBTQIA+ children and young adults from having a safe space. Calling drag queens adult performers is ignorant. Drag queens can perform for both children and adults. We adapt our performances and our outfits to be kid friendly. We do not do these shows for the money, we do them to provide a safe space. A teen once told me that they finally felt comfortable with who they are after watching our show. They said that they felt like they had a place to be themselves, which they never had before. If this bill is passed we are taking away from that support system and as we know that is so important in reducing risk for suicidality. Having one affirming adult can reduce the risk of suicide significantly. I dont want to see children dying because they have nowhere to go to get support. I want to see children thriving, happy, and healthy.

If someone does not like drag, then dont go to a show. If you do not want your kid to see drag that is fine but do not take away from other individuals who want their kids to have a safe space.

Representation matters. Safe spaces matter. Queer spaces matter. Without safe spaces like these we are going to see an increase in suicides among children and young adults. Do you want that blood on your hands?

Thank you for your time,

Leah Wozniak

Senators,

You will be given the opportunity to vote on whether or not to criminalize certain performances, including drag performances. I hope you will use this opportunity to vote Nay on HB1333.

As you consider this, please consider how this can impact other groups in your community. In Minot, the local community theater would not have been able to perform "Clue: the musical" as they did last year since it requires a male to dress as a female. Minot's men's choir (The heritage singers) host a variety show every year where at least one member dresses as a woman. High school theater groups almost never have enough males to fill roles so females often dress as male characters.

I'm sure you'll say that's not the intent of this bill. But who will define "prurient" under this bill? If someone is sexually aroused by "Clue" then the theatre will be liable for a Class A misdemeanor. That's exactly how this bill reads. It opens the door for anyone who is made "uncomfortable" to press charges.

Please oppose this bill.

Thank you,
Janet Anderson
Burlington, ND

Hello,

My name is Grace Deal and I reside in District 38. I am writing in support of HB 1333. As a mother of 5 young children, and a woman who has spent considerable time in the Child Development field, I am asking that you pass HB 1333 as a way to protect our children.

No child under the age of 18 needs to be exposed to sexually explicit material. They are already inundated by it though the Internet and devices. Our children's innocence needs to be protected by adults who care about them. Drag shows are a type of ADULT entertainment. When people are at the age to decide if they want to participate in sexually explicit shows, then they can make that decision. By crossing the lines and bringing this very sexualized entertainment to children, is perverted and wrong. Any adult who thinks it is ok to perform sexual acts in front of children should be criminalized. It does not matter if you cloak it with "Inclusion" or "equality" or "acceptance" language.

It is not Anti-LGBTQ to ask that adult entertainment be reserved only for adults. It is PRO-child.

A child should be allowed to walk into a public space and NOT be subject to adult entertainment. Children are not allowed in liquor stores. They are not allowed in R-rated movies. Why? Because they are not mature enough to handle it. We do not allow alcohol to be served freely on public property without checking IDs. We do not allow libraries to show R Rated movies in the children's sections. Why should we allow adult sexual entertainment to be performed in front of children?

This bill is not outlawing adult cabaret shows, but simply ensuring they are happening in settings where children are not present. These shows as defined by the bill feature "topless dancers, exotic dancers, strippers, or male or female impersonators who provide entertainment" If you can justify why a child should be present in this type of entertainment, then you should never be allowed to work with children.

We would do well as a society to consider children's needs above our own. Please pass HB 1333.

Grace Deal
District 38
Berthold, ND

Testimony in opposition to HB 1333

Senate Judiciary Committee

Christina Sambor, North Dakota Human Rights Coalition, Human Rights Campaign

March 20, 2023

Chairwoman Larson and Members of the Committee:

I come before you today to oppose HB 1333. This bill is overly broad and restricts free speech. It also seeks to regulate entertainment that has always been a part of American entertainment and expression. This bill appears to be aimed at a misconception that drag always is inherently sexual. Drag is an important part of LGBTQ+ community. It is a highly entertaining expression of joy. It is also not monolithic. Drag performance, like any performances, are tailored to audiences. If a drag show has more explicit content, it would be performed in 21+ establishments. There is no legitimate state interest in criminalizing drag performances. These types of prior restraint laws are subject to very high scrutiny, as they impede free speech. If the committee's desire is to ensure that drag shows, and any other adult entertainment, are not used inappropriately in ways that would expose children to age-inappropriate behavior, the language in this bill should be amended to be better tailored to that purpose. Please vote no on HB 1333.

Summary: Protecting minors from inappropriate content and performances

Madam chair and members of the judiciary committee.

Introduction:

1. I like to believe that we all, as adults, want to protect children. The safety, well-being, and healthy development of minors are crucial aspects of a thriving society.
2. It is the duty of communities and policymakers to ensure that minors are not exposed to harmful or inappropriate content.
3. This is a great bill in front of us because it directly addresses female impersonators and exotic dancers.
4. You, as lawmakers, have an opportunity to take impactful action.
5. Negative impact on children's psychological, emotional, and social development.

Psychological and Emotional Development Repercussions

1. Exposing minors to adult-themed performances
 - a. Will interfere with the **psychological and emotional** development of children
2. This is why we already have some laws in place
 - a. Not allowing minors to attend bars until they are 21
 - i. Title 5, Chapter 5-02 or the North Dakota century code.
 - b. Casinos until at least 18
 - c. The human brain is not fully developed until a person is in their 20's.
 - d. **For the same reasons, I ask the question then, why would we allow children to observe sexually explicit content of any kind?**
3. Early exposure to a child's brain that is **still developing**
 - a. Causing confusion
 - i. gender roles
 - ii. identity
 - iii. Healthy relationships
 - iv. Overall appropriate behavior
4. Early exposure to this sexual content leads to the **sexualization of minors**

Social Development and Peer Pressure Repercussions

1. Increased peer pressure to do things a child does not want to do
2. Normalization of inappropriate behavior
 - a. Causes minors to be more susceptible to engaging in risky activities
 - b. Embracing gender stereotypes that can hinder growth and development

Protecting minors from inappropriate content and performances

Madam chair and members of the judiciary committee.

Introduction:

I like to believe that we all, as adults, want to protect the safety and wellbeing of children. The safety, well-being, and healthy development of minors are crucial aspects of a thriving society. It is the duty of communities and policymakers to ensure that minors are not exposed to potentially harmful or inappropriate content. One such area of concern is the exposure of minors to adult-oriented performances, specifically those involving female impersonators and exotic dancers. These activities certainly have a negative impact on children's psychological, emotional, and social development.

Argument 1: Psychological and Emotional Development

Exposing minors to adult-themed performances, such as those by female impersonators and exotic dancers, may interfere with their psychological and emotional development. Minors, particularly young children, are still developing their understanding of gender roles, identity, and social norms. Exposure to provocative performances might lead to confusion, anxiety, or misperceptions about appropriate behavior.

Moreover, adult-themed performances often involve sexually suggestive content that may not be suitable for minors. Early exposure to such content might contribute to the premature sexualization of minors, leading to inappropriate behavior or misconceptions about healthy relationships.

The state of North Dakota does not allow minors to attend bars serving alcohol, because it is illegal for persons under the age of 21 to consume alcohol. Details of this can be found in Title 5, Chapter 5-02 or the North Dakota century code. One reason minors are not allowed to legally consume alcohol is because the human brain is not fully developed until a person is in their 20's. For the same reasons, I ask the question then, why would we allow children to observe sexually explicit content of any kind?

Argument 2: Social Development and Peer Pressure

Allowing female impersonators and exotic dancers to perform in front of minors could also negatively impact their social development. Minors may be influenced by their peers' reactions to these performances, leading to peer pressure or the normalization of inappropriate behavior. Such exposure

may make minors more susceptible to engaging in risky activities, seeking validation through sexualized behavior, or embracing gender stereotypes that can hinder their growth and development.

Argument 3: Legal and Ethical Considerations

Prohibiting female impersonators and exotic dancers from performing in front of minors is a matter of legal and ethical responsibility. Laws and regulations are in place to protect minors from exposure to explicit content, such as age restrictions for attending certain events or accessing explicit media. These laws recognize the importance of safeguarding the well-being and development of minors.

Furthermore, ethical considerations demand that communities and policymakers prioritize the protection of minors from potentially harmful content. By establishing guidelines and restrictions on performances, society can maintain a safe and nurturing environment for children and adolescents.

Argument 4: Parental Rights

There are some that would say that it is the parents right to choose if they want to take their children to events addressed in this bill. I am all for parental rights, but history has show us that we, as a society, need to draw lines using our legal system to protect the innocence of children.

Do you think that it is appropriate to bring a child to a strip club and view biological females dressed in scant clothing dancing with a pole? If not, how much more inappropriate is it to bring a child to a drag show or event that has biological males dressed as females in scant clothing dancing with poles?

Conclusion:

In conclusion, prohibiting female impersonators and exotic dancers from performing in front of minors is an essential step in protecting their psychological, emotional, and social development. By restricting access to adult-themed performances, communities and policymakers can ensure that minors grow and develop in a safe, healthy, and nurturing environment. Protecting children is a legitimate state interest. The legal and ethical responsibility to protect minors from inappropriate content requires that society takes these concerns seriously and enacts measures to prevent potential harm.

Senate Judiciary Committee

HB1333

March 20, 2023

Chair Larson, Vice Chair Paulson, and members of the Committee:

On behalf of the ACLU of North Dakota, I submit testimony in opposition to HB1333.

This overly broad bill is a violation of the First Amendment rights of North Dakota citizens. Drag is a centuries old form of art and entertainment dating back to the origins of theatre in ancient Greece and was standard in all productions of Shakespeare. For decades, drag has been a part of mainstream American culture from the silver screen classic *Some Like it Hot* to the comedy antics of *Mrs. Doubtfire*.

While drag is not new to artistic expression of the LGBTQ+ Two Spirit community, this particular form of drag has joined more mainstream entertainment and culture over the past 20 years.

Not all drag performances contain adult content, and those that do, typically cater to the appropriate audience and venue. This bill seeks to label all drag entertainment as adult entertainment. Drag performers typically show less skin than the cisgender female servers at some popular restaurants and use dance moves that would rival any cheerleaders at local sporting events—both where children are often present.

Furthermore, families have a First Amendment right to attend these events and the performers and venues have a right to offer them. Parents have the right to determine what is appropriate for them to attend without government instructing them.

Lastly, let's state plainly what this bill is: an attempt to remove LGBTQ people from public life. This bill, like others like it across the country are being fueled by the same paranoia and fear leading to banning books and censoring teachers for treating all their students the same. Laws like this have a long history of hurtfully and pointlessly targeting, arresting, and criminalizing LGBTQ people, giving police permission to raid bars like Stonewall and arrest trans women for simply existing in public.

The First Amendment guarantees a right to freedom of expression, regardless of whether that is expressing gender, art, or political belief.

HB1333 is unnecessary government overreach and should not become law. We strongly urge a “do not pass” recommendation from the Senate Judiciary Committee.

Cody J. Schuler
Advocacy Manager
ACLU of North Dakota
cschuler@aclu.org

ACLU

AMERICAN CIVIL LIBERTIES UNION

North Dakota

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Stricken language would be deleted from and underlined language would be added to present law.
Act 131 of the Regular Session

1 State of Arkansas As Engrossed: S1/23/23 H1/30/23 H2/2/23
2 94th General Assembly
3 Regular Session, 2023

A Bill

SENATE BILL 43

4
5 By: Senators G. Stubblefield, J. Bryant, B. Johnson, K. Hammer, Rice, Flippo, C. Penzo, Gilmore, Stone,
6 M. McKee, A. Clark, Hester, Dees, D. Sullivan, Caldwell, Hill
7 By: Representatives Bentley, Barker, C. Cooper, Crawford, Haak, D. Hodges, Ladyman, Long,
8 Lundstrum, McAlindon, R. Scott Richardson, Rose, Rye, Tosh
9

For An Act To Be Entitled

10 AN ACT TO ADD CERTAIN RESTRICTIONS TO AN ADULT-
11 ORIENTED PERFORMANCE; TO DEFINE AN ADULT-ORIENTED
12 PERFORMANCE; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO ADD CERTAIN RESTRICTIONS TO AN ADULT-
16 ORIENTED PERFORMANCE; AND TO DEFINE AN
17 ADULT-ORIENTED PERFORMANCE.
18
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21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 14-1-302, concerning definitions related to
25 adult-oriented businesses, is amended to add additional subdivisions to read
26 as follows:

27 (26) "Adult-oriented performance" means a performance that is
28 intended to appeal to the prurient interest and that features:

29 (A) A person who appears in a state of nudity or is
30 seminude;

31 (B) The purposeful exposure, whether complete or partial,
32 of:

33 (i) A specific anatomical area; or

34 (ii) Prosthetic genitalia or breasts; or

35 (C) A specific sexual activity;

36 (27) "Minor" means an individual who is less than eighteen (18)



1 years of age; and
2 (28) "Public funds" means funds, moneys, receivables, grants,
3 investments, instruments, real or personal property, or other assets,
4 liabilities, equities, revenues, receipts, or disbursements belonging to,
5 held by, or passed through a governmental body.

6
7 SECTION 2. Arkansas Code § 14-1-303, concerning the location of adult-
8 oriented businesses, is amended to add an additional subsection to read as
9 follows:

- 10 (d) An adult-oriented performance shall not:
11 (1) Take place on public property;
12 (2) Admit any minor for attendance; or
13 (3) Be funded in whole or in part with public funds.

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15 /s/G. Stubblefield

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18 **APPROVED: 2/24/23**
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23.0375.03003
Title.

Prepared by the Legislative Council staff for
Senator Sickler
March 24, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

Page 1, line 9, replace "adult cabaret" with "adult-oriented"

Page 1, line 9, remove "in a"

Page 1, remove lines 10 and 11

Page 1, line 12, replace "a prurient interest" with "that"

Page 1, line 12, after "consideration" insert ", is intended to appeal to a prurient interest and features:

a. The purposeful exposure, whether complete or partial, of:

(1) A human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or

(2) Prosthetic genitalia, breasts, or buttocks; or

b. Sexual conduct"

Page 1, line 14, replace "engages in" with "organizes"

Page 1, line 14, replace "adult cabaret" with "adult-oriented"

Page 1, line 17, remove "the adult cabaret performance is in the presence of an"

Page 1, line 18, replace "individual" with "individuals"

Page 1, line 18, after "eighteen" insert "are admitted or allowed"

Re-number accordingly

23.0375.03003

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, D. Ruby,
Tveit, VanWinkle

Senator Estenson

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to restrictions on adult-oriented performances; to amend and reenact
3 section 12.1-27.1-12 of the North Dakota Century Code, relating to state pre-emption of local
4 laws regulating obscenity; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Restrictions on adult-oriented performances - Penalty.**

9 1. As used in this section, "~~adult cabaret~~adult-oriented performance" means a
10 performance in a location other than an adult cabaret which features topless dancers,
11 exotic dancers, strippers, or male or female impersonators who provide entertainment
12 that appeals to a prurient interestthat, regardless of whether or not performed for
13 consideration, is intended to appeal to a prurient interest and features:

14 a. The purposeful exposure, whether complete or partial, of:
15 (1) A human genital, the pubic region, the human buttocks, or a female breast,
16 if the breast is exposed below a point immediately above the top of the
17 areola; or

18 (2) Prosthetic genitalia, breasts, or buttocks; or

19 b. Sexual conduct.

20 2. A person is guilty of a class A misdemeanor for a first offense and a class C felony for
21 a second or subsequent offense if the person ~~engages in~~organizes an ~~adult~~
22 ~~cabaret~~adult-oriented performance:

23 a. On public property; or

- 1 b. ~~In a location where the adult cabaret performance is in the presence of an~~
2 ~~individual~~ individuals under the age of eighteen ~~are admitted or allowed.~~

3 **SECTION 2. AMENDMENT.** Section 12.1-27.1-12 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **12.1-27.1-12. State pre-emption of local laws regulating obscenity.**

6 This chapter ~~shall be~~ applicable and uniform throughout the state, and ~~no~~ political
7 subdivision ~~shall~~ may not enact new, or enforce existing, ordinances or resolutions regulating or
8 prohibiting the dissemination of obscene materials, or controlling obscene or adult-oriented
9 performances, except ordinances authorized by section 5-02-09, section 58-03-11, chapter
10 11-33, or chapter 40-47.

23.0375.03004
Title.

Prepared by the Legislative Council staff for
Senator Sickler

April 3, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

In lieu of the amendments adopted by the Senate as printed on pages 1267 and 1268 of the Senate Journal, Engrossed House Bill No. 1333 is amended as follows:

Page 1, line 9, replace the underscored comma with ":

a."

Page 1, line 9, replace "adult cabaret" with "Adult-oriented"

Page 1, line 9, remove "in a"

Page 1, remove lines 10 and 11

Page 1, line 12, replace "a prurient interest" with "that"

Page 1, line 12, after "consideration" insert ", is intended to appeal to a prurient interest and features:

(1) The purposeful exposure, whether complete or partial, of:

(a) A human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or

(b) Prosthetic genitalia, breasts, or buttocks; or

(2) Sexual conduct.

b. "Public property" means real property in which a state agency or a political subdivision has an ownership interest"

Page 1, line 14, replace "engages in" with "organizes"

Page 1, line 14, replace "adult cabaret" with "adult-oriented"

Page 1, line 17, remove "In a location where the adult cabaret performance is in the presence of an"

Page 1, line 18, replace "individual under the age of eighteen" with "At a business establishment frequented by minors, or where minors are or may be invited as a part of the general public"

Re-number accordingly

23.0375.03004

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, D. Ruby,
Tveit, VanWinkle

Senator Estenson

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to restrictions on adult-oriented performances; to amend and reenact
3 section 12.1-27.1-12 of the North Dakota Century Code, relating to state pre-emption of local
4 laws regulating obscenity; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Restrictions on adult-oriented performances - Penalty.**

9 1. As used in this section:

10 a. ~~"adult cabaret~~Adult-oriented performance" means a performance ~~in a location~~
11 ~~other than an adult cabaret which features topless dancers, exotic dancers,~~
12 ~~strippers, or male or female impersonators who provide entertainment that~~
13 ~~appeals to a prurient interest~~that, regardless of whether or not performed for
14 consideration, is intended to appeal to a prurient interest and features:

15 (1) The purposeful exposure, whether complete or partial, of:

16 (a) A human genital, the pubic region, the human buttocks, or a female
17 breast, if the breast is exposed below a point immediately above the
18 top of the areola; or

19 (b) Prosthetic genitalia, breasts, or buttocks; or

20 (2) Sexual conduct.

21 b. "Public property" means real property in which a state agency or a political
22 subdivision has an ownership interest.

- 1 2. A person is guilty of a class A misdemeanor for a first offense and a class C felony for
2 a second or subsequent offense if the person ~~engages in~~organizes an ~~adult-~~
3 ~~cabaret~~adult-oriented performance:
4 a. On public property; or
5 b. ~~In a location where the adult cabaret performance is in the presence of an-~~
6 ~~individual under the age of eighteen~~At a business establishment frequented by
7 minors, or where minors are or may be invited as a part of the general public.

8 **SECTION 2. AMENDMENT.** Section 12.1-27.1-12 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12.1-27.1-12. State pre-emption of local laws regulating obscenity.**

11 This chapter ~~shall be~~is applicable and ~~uniform~~ throughout the state, and ~~no~~a political
12 subdivision ~~shall~~may not enact new, or enforce existing, ordinances or resolutions regulating or
13 prohibiting the dissemination of obscene materials, or controlling obscene or adult-oriented
14 performances, except ordinances authorized by section 5-02-09, section 58-03-11, chapter
15 11-33, or chapter 40-47.

23.0375.03006
Title.

Prepared by the Legislative Council staff for
Representative Prichard
April 10, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

That the Senate recede from its amendments as printed on pages 1536 and 1537 of the House Journal and pages 1304 and 1305 of the Senate Journal and that Engrossed House Bill No. 1333 be amended as follows:

Page 1, line 9, replace the underscored comma with ":

a."

Page 1, line 9, replace "adult cabaret" with "Adult-oriented"

Page 1, line 9, remove "in a"

Page 1, remove lines 10 and 11

Page 1, line 12, replace "a prurient interest" with "that"

Page 1, line 12, after "consideration" insert ", is intended to appeal to a prurient interest and features:

(1) The purposeful exposure, whether complete or partial, of:

(a) A human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or

(b) Prosthetic genitalia, breasts, or buttocks; or

(2) Sexual conduct.

b. "Public property" means real property in which a state agency or a political subdivision has an ownership interest"

Page 1, line 14, replace "engages in" with "organizes"

Page 1, line 14, replace "adult cabaret" with "adult-oriented"

Page 1, line 16, remove "or"

Page 1, line 17, remove "In a location where the adult cabaret performance is in the presence of an"

Page 1, line 18, replace "individual under the age of eighteen" with "At a business establishment frequented by minors, or where minors are or may be invited as a part of the general public;

c. On residential property where minors are present; or

d. At any location on private property where minors are or may be invited as a part of the general public"

Re-number accordingly

Introduced by

Representatives Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, D. Ruby,
Tveit, VanWinkle

Senator Estenson

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to restrictions on adult-oriented performances; to amend and reenact
3 section 12.1-27.1-12 of the North Dakota Century Code, relating to state pre-emption of local
4 laws regulating obscenity; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Restrictions on adult-oriented performances - Penalty.**

9 1. As used in this section:

10 a. "~~adult cabaret~~Adult-oriented performance" means a performance ~~in a location~~
11 ~~other than an adult cabaret which features topless dancers, exotic dancers,~~
12 ~~strippers, or male or female impersonators who provide entertainment that~~
13 ~~appeals to a prurient interest~~that, regardless of whether or not performed for
14 consideration, is intended to appeal to a prurient interest and features:

15 (1) The purposeful exposure, whether complete or partial, of:

16 (a) A human genital, the pubic region, the human buttocks, or a female
17 breast, if the breast is exposed below a point immediately above the
18 top of the areola; or

19 (b) Prosthetic genitalia, breasts, or buttocks; or

20 (2) Sexual conduct.

21 b. "Public property" means real property in which a state agency or a political
22 subdivision has an ownership interest.

- 1 2. A person is guilty of a class A misdemeanor for a first offense and a class C felony for
2 a second or subsequent offense if the person ~~engages in~~organizes an ~~adult-~~
3 ~~cabaret~~adult-oriented performance:
4 a. On public property; ~~or~~
5 b. ~~In a location where the adult cabaret performance is in the presence of an-~~
6 ~~individual under the age of eighteen~~At a business establishment frequented by
7 minors, or where minors are or may be invited as a part of the general public;
8 c. ~~On residential property where minors are present; or~~
9 d. ~~At any location on private property where minors are or may be invited as a part~~
10 of the general public.

11 **SECTION 2. AMENDMENT.** Section 12.1-27.1-12 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12.1-27.1-12. State pre-emption of local laws regulating obscenity.**

14 This chapter ~~shall be~~is applicable ~~and uniform~~ throughout the state, and ~~no~~a political
15 subdivision ~~shall~~may not enact new, or enforce existing, ordinances or resolutions regulating or
16 prohibiting the dissemination of obscene materials, or controlling obscene or adult-oriented
17 performances, except ordinances authorized by section 5-02-09, section 58-03-11, chapter
18 11-33, or chapter 40-47.