

**To: Interested Parties**  
**From: Equality Pennsylvania**  
**Date: June 27, 2016**  
**Re: Debunking PFI's Deceptive Claims about SB 1307**

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In advance of the Pennsylvania Family Institute's Demand My Privacy rally at the capitol later today, Equality Pennsylvania wanted to share the facts about SB 1307 – legislation which would extend badly needed nondiscrimination protections to over a quarter-million lesbian, gay, bisexual and transgender (LGBT) people who live and work in Pennsylvania.

SB 1307 made history this past week – its advancement out of the Urban Affairs and Housing committee, with bipartisan support, marked the first time the Senate has advanced legislation that affirms the need for LGBT nondiscrimination protections.

SB 1307 was carefully crafted to respect the rights of employers and the freedom of religious institutions. Despite PFI's claims, the reality is this legislation does nothing to alter the freedom of religious organizations to make hiring and firing decisions in alignment with their religious beliefs. That's a freedom that is understandably protected by state law and the Constitution, and upheld by the U.S. Supreme Court.

SB 1307 reflects the will of Pennsylvanians – nearly 80 percent of whom support updating our laws to include nondiscrimination protections based on sexual orientation, gender identity and expression. And it reflects the best practices of business big and small across the Keystone State: all 18 of the Fortune 500s based in Pennsylvania have nondiscrimination policies covering sexual orientation and gender identity, as do more than half of the state's largest employers.

Below, please find additional information on the legislation that will help clarify the bill's true meaning. Please do not hesitate to contact Levana Layendecker, Equality PA Deputy Director, [llayendecker@equalitypa.org](mailto:llayendecker@equalitypa.org), 267-240-4338, if we can provide additional information.

## **EMPLOYMENT:**

### **PERSONAL PRIVACY**

Under SB 1307, employers can require gender-specific bathroom usage and institute whatever provisions they like in order to protect the personal privacy of their employees, provided they do not discriminate on the basis of gender identity. Employers may separate bathrooms and other facilities by sex and may prohibit any improper or threatening use of such facilities.

### **RELIGIOUS FREEDOM**

Nothing in SB 1307 affects the constitutional rights of a religious organization to make any determination, or to discriminate on any basis, in the hiring or firing of ministerial employees. The U.S. Supreme Court ruled that religious organizations are completely exempt from anti-discrimination laws in employment decisions about persons holding such positions. Courts have held that the exemption is not only applicable to traditional “ministers,” but also applies to a pastoral-care associate; a church music director and organist; teachers charged with integrating church doctrine into their teaching; employees who ran an adult rehabilitation center that incorporated prayer and worship; a teacher at a Catholic elementary school who did not teach religion but attended Catholic ceremonies with her students and participated in faculty-development efforts aimed at helping teachers impart “Catholic values;” and a communications manager.

# HOUSING:

## PERSONAL PRIVACY

Under the Pennsylvania Human Relations Act, the term “housing accommodations” includes “any building, structure, mobile home site or facility, or portion thereof, which is used...as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other.” However, by statutory definition it does not include any personal residence offered for rent by the owner. This existing exemption, which is not changed by S.B. 1307, addresses many of the privacy concerns raised by the Pennsylvania Family Council.

Further, with regard to shared rooming arrangements, retirement homes with common living areas or entrances, or “an elderly woman renting out space in her personal residence,” the following existing exemptions also continue to apply.

“Nor shall it apply to the rental of **rooms in a landlord-occupied rooming house** with a common entrance, nor **with respect to discrimination based on sex, the advertising, rental or leasing of housing accommodations in a single-sex dormitory or rooms in one’s personal residence** in which common living areas are shared.”

## RELIGIOUS FREEDOM

The claim that there is no protection for religious groups under S.B. 1307 is demonstrably false. There already exists within the PA Human Relations Act’s housing provisions a broad religious exemption for a wide category of religious organizations, not just to prefer their own co-religionists, but also to make determinations consistent with their religious principles (including, presumably, principles opposed to recognition of a transgender identity). The law states:

“Nothing in this clause shall bar any religious or denominational institution or organization or **any charitable or educational organization** which is operated supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization from **giving preference to persons of the same religion** or denomination or to members of such private or fraternal organization **or from making such selection as is calculated by such organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained.**”

Religious organizations thus already enjoy wide discretion with regard to their housing facilities consistent with the organization’s sincerely held beliefs. S.B. 1307 does not affect these protections.