

Testimony in Support of HB 225
Before the Texas House Committee on Business and Industry
May 1, 2017

Mr. Chair, Mr. Vice-Chair, and Members of the Committee:

My name is Paul D. Castillo and I am a Senior Attorney for Lambda Legal Defense and Education Fund (“Lambda Legal”). Lambda Legal is the Nation’s oldest and largest nonprofit legal organization making the case for equality for lesbian, gay, bisexual and transgender (“LGBT”) people for more than forty years. Lambda Legal has served our Texas LGBT community from its South Central Regional office in Dallas for more than twenty years.¹

Today, I am pleased to appear before you to express support for HB225, an exceptionally important bill aimed at eradicating workplace discrimination suffered by LGBT individuals.²

Discrimination against LGBT people is all too common and workplace discrimination is a real problem for LGBT Texans. Every year, qualified, hard-working Texans are denied job opportunities, are terminated, or experience on-the-job discrimination because of who they are or who they love. A 2013 national survey conducted by Pew Research Center found that 21% of LGBT respondents reported having been treated unfairly by an employer in hiring, pay, or promotions.³ As a result, Lambda Legal prioritizes matters of employment discrimination, as requests for legal help in this area are the most numerous received.

Workplace discrimination against transgender individuals is pervasive and punishing. In a recent nationwide survey of 28,000 transgender people, one in six respondents who had been employed reported having lost a job because of their gender identity with almost a third of respondents who had held or applied for a job during that year reporting that they had been fired, denied a promotion, or not hired because of their transgender status.⁴ Nearly a quarter of respondents who had a job in the past year reported having experienced harassment or mistreatment once on the job, and 15 percent

¹ Our work has included cases such as *Lawrence v. Texas*, in which the U.S. Supreme Court struck down the Texas “Homosexual Conduct” law and all of the remaining state laws that criminalized same-sex intimate relationships. *Lawrence v. Texas*, 539 U.S. 558 (2003).

² **HB 225** by Johnson, Eric (Relating to the prohibition of employment discrimination based on sexual orientation or gender identity or expression.)

³ *Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times*, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>

⁴ See Sandy E. James, *et al.*, *2015 U.S. Transgender Survey*, at p. 10, National Center for Transgender Equality (Dec. 2016), <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>

reported having been attacked or assaulted at work.⁵ LGBT Texans find similar levels of reported discrimination and harassment.⁶

In 2012, a transgender employee of a truck driving school filed a lawsuit alleging that he had been discriminated against by the school because of his gender identity. The employee reported that a regional manager who visited the site one day asked a supervisor, referring to the employee, “What is that and who hired that?” and stated that the company “did not hire ‘cross genders.’” The regional manager also suggested that there would be consequences for the supervisor who had hired the employee, telling her, “We will deal with you for hiring that.” In 2014, a federal court in Texas granted summary judgment in favor of the employer after determining that the evidence presented by the employee was “related to the [employee’s] status as a transgender person...not [his] conformance with gender stereotypes.” As such, the court held that the employee was not protected by Title VII of the Civil Rights Act of 1964.⁷

Stigma and discrimination can result in negative outcomes for LGBT individuals including economic stability and poor health.⁸ Notably, the experiences of workplace discrimination and subsequent job insecurity contribute to higher rates of poverty in the LGBT community, particularly in transgender communities and communities of color.⁹ LGBT people need to work to support themselves and their families. It threatens the wellbeing and economic survival of workers and their families.

It is absolutely critical for this Committee and the Texas Legislature to address the issues of workplace fairness. LGBT workers deserve to be judged on their skills and qualifications, on their work and merit, not on their sexual orientation or their gender identity or expression. Hard work and fair treatment are core Texan values and no person should be denied the opportunity to work because of factors unrelated to job performance.

Thank you again for the opportunity to testify in support of this important legislation. I look forward to answering the Committee’s questions.

⁵ *Id.*

⁶ See Christy Mallory et al., *The Impact of Stigma and Discrimination Against LGBT People in Texas*, The Williams Institute (April 2017), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Texas-Impact-of-Stigma-and-Discrimination-Report-April-2017.pdf>

⁷ *Eure v. Sage Corp.*, 61 F. Supp. 3d 651 (W.D. Tex. 2014). *Cf. Lopez v. Rover Oaks Imaging & Diagnostic Grp., Inc.*, 542 F. Supp. 2d 653 (S.D. Tex. 2008) (transgender woman could proceed with her Title VII after employer rescinded the job offer concluding the applicant had ‘misrepresented’ herself during the interview process.)

⁸ Mallory, *supra*, at FN 6; See also Jennifer C. Pizer, Brad Sears, Christy Mallory & Nan Hunter, *Evidence of Persistent and Pervasive Workplace Discrimination Against LGBT People: The Need for Federal Legislation Prohibiting Discrimination and Providing Equal Employment Benefits*, 45 Loy. L.A. L. Rev. 715, 738-742 (2012).

⁹ 2015 *U.S. Transgender Survey: Texas State Report*, National Center for Transgender Equality (Jan. 2017), <https://www.equalitytexas.org/wp-content/uploads/2017/01/TX-State-Report-FINAL-1.26.17.pdf>