



H. 329 – An act relating to amending the prohibitions against discrimination

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Thank you for taking up H. 329 today, an act relating to amending the prohibitions against discrimination. We are grateful for the Committee's continued work on this bill. The purpose of this bill is to widen the pathway for legitimate and meritorious claims of discrimination to be heard and to change the severe and pervasive standard.

The Vermont Network testified earlier in the session on the important protections included in this bill related to both housing and employment and we remain supportive of these components of the proposal. Today, we wanted to share a few comments re regarding sites of public accommodations.

Many sites of public accommodations including in healthcare, prisons and schools have statutory and institutional policies regarding harassment and discrimination. It is not necessary, nor congruent with the aims of this bill, to carve out any one particular site of public accommodation from the language of the bill. Carving out a site of public accommodation, such as schools, from this bill will diminish the impact of this legislation. The effect of such a proposal could be to foreclose students' right to pursue a claim for harassment under the Public Accommodations Act and also foreclose their right to pursue a claim for disparate treatment after they have pursued a remedy. The intention of this bill is to change the standard across all sites of public accommodation.

We agree that the voices of students who have experienced homophobic, gender-based or race-based harassment at their schools should be heard. Students need and deserve the ability to not only navigate school-based processes for addressing discrimination and harassment, but the ability to address circumstances where they have experienced continued discrimination though that process.

In recent testimony provides by VSBA, the committee heard that increased claims of discrimination and/or harassment will lead to increased liabilities and costs for institutions and insurers. The Legislature confronted this claim recently, when the General Assembly expanded the definitions and statutes of limitations for civil claims related to child sexual abuse. Those



changes allowed for claims to be brought forth to the court against both individuals and institutions. In policy discussions regarding those changes, similar concerns were raised by insurers and institutions that were concerned about hypothetical future liability. It has now been several years since those changes have been enacted and these have not been borne out at all. There is no reason to believe this would be any different.

Bringing forth a claim of discrimination or harassment is not only an exceptionally difficult process, but is also often an expensive and traumatic one. In the case of educational settings, the potential victims of harassment and discrimination are minors who are not in positions of power. They do not have ready access to attorneys or insurance. Students who experience multiple sources of marginalization due to protected characteristics are most vulnerable and in need of protection - even more so than an adult in a workplace or navigating housing options. Hypothetical concerns, in the absence of concrete data, about insurability and liability must be weighed against the rights of students to feel safe and unharmed in order to access their education.