



The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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September 15, 2023

The Honorable Lisa Baker
Chair, Senate Judiciary Committee
Senate Box 203020
Harrisburg, PA 17120-3020
Room: 173 Main Capitol

RE: Support for Senate Bill (“SB”) 63, Combating Hate-Based Intimidation and Violence

Dear Chair Baker,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness (the “Commission”), we write to convey our strong support for SB 63. If passed, this bill would amend Pennsylvania’s “Ethnic Intimidation” statute to more broadly establish the crime of hate-based intimidation based on, among other characteristics, a person’s gender, gender identity, and sexual orientation. Since January 31, 2023, SB 63 has been in the Judiciary Committee for consideration. To date, the Committee has neither convened a hearing nor reported on this bill. For the reasons that follow, we respectfully urge the Judiciary Committee to consider SB 63 and take the appropriate measures to move it through Committee, facilitating its passage.

The Commission was established in 2005 by the three branches of Pennsylvania’s government to implement the recommendations from a 2003 Pennsylvania Supreme Court study on racial and gender bias in the justice system.¹ The Commission has since expanded its areas of focus to including ending discrimination against LGBTQ+ Pennsylvanians in our courts and throughout the Commonwealth. Through its LGBTQ+ Rights Committee, the Commission is working with LGBTQ+ advocacy organizations and municipal leaders to secure the passage of ordinances that would expand non-discrimination protections for LGBTQ+ individuals in their respective localities. The Committee is also working with the Pennsylvania Department of Human Services to update its regulations to include similar non-discrimination protections for LGBTQ+ youth in out-of-home placements. Consistent with these and other Commission initiatives to ensure that LGBTQ+ Pennsylvanians receive equal protection under the law, we now advocate for the passage of SB 63.

¹ See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf>.

SB 63 takes an important first step toward combating the escalating commission of hate crimes occurring across the country. In March 2023, the FBI released a supplement to its 2021 Hate Crime Statistics Report, a compilation of bias-motivated incidents in the U.S. initially published in December 2022. The supplemental data allowed for a more complete representation of reported hate crimes in the U.S., reflecting the reports of 18,859 law enforcement agencies serving 91.1% of the U.S. population.² The data underscored the need to implement statutes like those proposed by SB 63: hate crimes increased by 11.6%, from 8,210 incidents in 2020 to 9,065 in 2021.³ While hate crimes increased *in general*, they also rose across nearly *all* of the specific bias-motivated categories. Reported hate crimes motivated by a sexual orientation bias, for instance, increased by 62.8% from 2020 to 2021, while gender-identity-motivated hate crimes increased by 17.9% and gender-motivated crimes rose by 1% in the same time frame.⁴ All told, one in every five hate crimes committed in the U.S. in 2021 involved incidents related to a person’s sexual orientation, gender, or gender identity.⁵

The data published by the FBI additionally demonstrates that, along with increasing across various categories of bias, the hate crimes committed in 2021 spanned a wide array of offense types and occurred in myriad locations. Of the offenses classified as crimes against persons in the 2021 dataset, 43.2% were prosecuted as intimidation, while 35.5% were simple assault and 20.1% were aggravated assault.⁶ 71.2% of the offenses demarcated as crimes against property, or nearly three in every four of such hate crimes, involved acts of destruction, damage, or vandalism.⁷ Depending on the nature of the hate crime or crimes committed against them, victims found themselves or their property being targeted at their residence, school, the local parks or playgrounds, and on sidewalks or in parking lots, among other places.⁸

This troubling uptick in hate crimes compels the General Assembly to take an important step toward reducing the number of crimes committed against individuals simply because of their sexual orientation, gender or gender identity, or other immutable characteristics by passing SB 63. Although the statistics reported by the FBI present information on hate crimes at the national level, Pennsylvania would likely have similar statistics if it collected the data. The results of a recent survey of over 4,000 LGBTQ+ Pennsylvanians in 66 of the Commonwealth’s 67 counties unfortunately bear this out: nearly a quarter of respondents reported having experienced physical

² U.S. Dep’t of Just., *Updated 2021 Hate Crimes Statistics* (last updated Mar. 27, 2023), available at <https://www.justice.gov/crs/highlights/2021-hate-crime-statistics>.

³ *Id.*

⁴ U.S. Dep’t of Just., Fed. Bureau of Investigation, Criminal Just. Info. Servs. Div., *Supplemental Hate Crime Statistics, 2021* 1, 6 (Mar. 2023), available at <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime>.

⁵ *Id.* at 4.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 5.

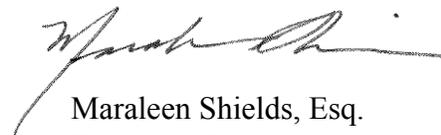
or sexual violence because of their LGBTQ+ identity.⁹ As one of only a handful of states that do not have a law enumerating sexual orientation and gender identity as bases for hate crime prosecutions, Pennsylvania is ill-equipped to prevent such violence.¹⁰

For these reasons, we strongly urge you to take the appropriate measures to facilitate the passage of SB 63. We would welcome the opportunity to provide testimony on SB 63 should the Judiciary Committee convene a hearing thereon. If you have any questions concerning this matter, we would be happy to discuss them with you at your convenience.

Respectfully,



Kaitlyn Burns, Esq.
Chair, LGBTQ+ Rights Committee



Maraleen Shields, Esq.
Executive Director



Brendan Bertig, Esq.
Staff Attorney

cc: The Hon. Steven J. Santarsiero, Minority Chair, Senate Judiciary Committee
The Hon. Timothy P. Kearney, Prime Sponsor, SB 63
Members of the Senate Judiciary Committee
Pennsylvania Interbranch Commission Members
Interbranch Commission's LGBTQ+ Rights Committee Members

⁹ Res. & Evaluation Group at Pub. Health Mgmt. Corp. and Bradbury-Sullivan LGBT Community Ctr., *2022 Pennsylvania LGBTQ Health Needs Assessment* 1, 21 (Jan. 2023), available at https://assets.nationbuilder.com/bradbrysullivancenter/pages/2872/attachments/original/1673023325/2022_PA_LGBTQ_HNA_Report_Final_approved.pdf?1673023325.

¹⁰ Movement Advancement Project, *Hate Crime Laws* (last updated Jul. 13, 2021), available at <https://www.lgbtmap.org/img/maps/citations-hate-crime.pdf>.