



FAIR HOUSING CENTER OF CENTRAL INDIANA, INC.

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**Testimony of
Amy Nelson, Executive Director,
of the Fair Housing Center of Central Indiana
on SB 100 before the
Senate Committee on Rules & Legislative Procedure
January 27, 2016**

Mr. Chairman, and members of the Committee, my name is Amy Nelson and I am the Executive Director of the Fair Housing Center of Central Indiana (FHCCI). The FHCCI is a nonprofit organization working to promote fair housing and address incidents of housing discrimination. Although the FHCCI believes in full protection from discrimination for our LGBT family, friends, and neighbors, we feel this bill has too many areas of concern for passage.

Specifically, the FHCCI cannot support any legislation which:

- **Allows for civil penalties on any persons who file a complaint that is determined to be “frivolous.”** This language would substantially quell persons who are victims of discrimination in moving forward with filing. Filing a fair housing discrimination complaint is an extremely difficult process to undertake. It is an emotional process where you may have to share information about yourself which is extremely personal and confidential. The victim is typically going forward without legal representation against a respondent who often has such representation. The victim often does not have access to respondent documents and evidence which would show that they have been discriminated against. It is an overwhelming process and one which victims do not take lightly. The FHCCI often interacts with persons unwilling to move forward despite evidence of unlawful housing discrimination. In addition, the bill’s use of “frivolous” is not defined and extremely vague for interpretation.
- **Allows for overrides of local ordinances with stronger discrimination protections.** As a state, our goal must be to ensure that discrimination in violation of laws does not occur. If any laws go above and beyond federal or state protections to ensure discrimination does not impact housing choice, they should be commended and supported.
- **Requires a certain type of dress or time period for such a dress code** in order to be considered “transgender” and protected under civil rights laws. There is simply no statistical evidence to support these requirements as related to safety. A [detailed report](#) which documented years of integrated gender housing shelters found that sometimes women’s shelters are concerned that men who are not transgender will begin to put on women’s clothing just to get into women’s homeless shelters. That fear doesn’t match the experience of shelters that have adopted policies that accept transgender women. In San Francisco, where transgender-inclusive shelters have been running for over 15 years, Human Rights Commission investigator Marcus Arana notes that, “We have not received a single complaint that any man has ever put on a dress to get into a women’s shelter.”
- **Changes the damages which are currently allowed to be provided through judges or juries in cases of unlawful discrimination.**

Currently, it is unlawful under the Indiana Fair Housing Law and/or the Indiana Civil Rights Act to discriminate in a housing transaction on the basis of race, color, religion, national origin, ancestry, disability, gender, and/or familial status. While certain Indiana localities, including Indianapolis, have put in place human relations ordinances that forbid discrimination in housing, employment, and/or public accommodations on the bases of sexual orientation and/or gender identity, these ordinances often lack strong enforcement processes and are frequently not equal to state and federal protections. This leaves victims of discrimination with little recourse when they have been denied housing or employment.

**A 2015 NATIONAL STUDY*
FOUND THAT 73% OF LGBT
HOMESEEKERS HAD A
STRONG CONCERN ABOUT
HOUSING DISCRIMINATION.**

*SOURCE: BETTER HOMES & GARDENS / NAGLREP, LGBT HOME BUYER AND SELLER SURVEY



Although 20 states have added sexual orientation and gender identity to anti-discrimination laws, there is still no statewide protection against housing discrimination on the basis of sexual orientation or gender identity in Indiana. Housing discrimination against LGBT households still occurs and is unfortunately still legal in many areas of the country, including many areas of Indiana. The FHCCI has received a dozen complaints from Hoosiers regarding potential housing discrimination due to sexual orientation or gender identity. These complaints have included the use of slurs by landlords as well as the loss of housing. Unfortunately, there are relatively few options for those who experience such housing discrimination.

National studies and studies from other parts of our country show that LGBT discrimination in housing is occurring and at significant levels. We cannot assume it is not occurring at similar levels in Indiana. A Joint Study of the [Better Homes and Gardens® Real Estate](#) and the National Association of Gay and Lesbian Real Estate Professionals (NAGLREP) found that 73% of survey responders stated strong concern about some aspect of housing discrimination, either in purchasing a home or renting. A [2013 HUD Study](#) found that same-sex couples experience less favorable treatment than heterosexual couples in the online rental housing market. The primary form of adverse treatment is that same-sex couples receive significantly fewer responses to e-mail inquiries about advertised units than heterosexual couples. A [2013 Study by a Washington, DC fair housing organization](#) found that 48% of those seeking housing in a senior living facility for a same-sex couple experienced at least one form of adverse differential treatment, as compared to those inquiring about housing for a heterosexual couple. A 2015 study by [HOME of Virginia](#), a nonprofit fair housing organization, found a 44% rate of discrimination against same-sex couples in their search for rental housing.

Case filings have been rare to date due to lack of adequate protection. In 2013, a [Nebraska jury awarded \\$147,000](#) to two gay men after finding that the couple had been discriminated against by an on-site maintenance man and others who failed to stop the apartment maintenance man's harassment due to their sexual orientation. In another case from 2013, HUD reached a settlement with [Bank of America](#) to settle a claim that the mortgage lender refused to provide FHA financing to a lesbian couple.

**A 2014 INVESTIGATION
CONDUCTED IN WASHINGTON,
D.C. FOUND THAT 48% OF OLDER
SAME-SEX COUPLES SEEKING
INDEPENDENT LIVING IN A SENIOR
HOUSING COMMUNITY WERE
SUBJECTED TO AT LEAST ONE TYPE
OF DIFFERENTIAL TREATMENT
COMPARED TO OPPOSITE-SEX
COUPLES SEEKING IDENTICAL
HOUSING.**

SOURCE: THE EQUAL RIGHTS CENTER, WASHINGTON D.C.



Recent reports indicate levels of housing discrimination experienced by those who are transgender are also at significant levels. A [2011 report](#) found that 19% of transgender people had been refused a home or an apartment because of their identity, and 11% had been evicted because of

discrimination. For those who had attempted to access homeless shelters, the report noted 29% were turned away altogether, 42% were forced to stay in facilities designated for the wrong gender, and others encountered a hostile environment. Fifty-five percent (55%) reported being harassed, 25% were physically assaulted, and 22% were sexually assaulted. Those surveyed were forced to use various strategies to secure shelter including moving into a less expensive home/apartment (40%), moving in with family or friends (25%), and having sex with people to sleep in a bed (12%). Furthermore, the National Alliance to End Homelessness estimates that gay and transgender youth make up about 20% of homeless youth nationwide, and the National Gay and Lesbian Task Force has suggested that the number may be as high as 40%. In August 2013, HUD issued its first charge of discrimination involving a transgender person being discriminated against by a Texas mobile home park owner.

In 2012, the U.S. Department of Housing and Urban Development (HUD) issued a Federal Rule listing protections against housing discrimination for LGBT individuals in forms of public housing and/or public housing funded projects. These included prohibiting lenders from discriminating on the basis of sexual orientation in the approval process for FHA home loans; including same-sex couples and any family that includes a gay, lesbian, bisexual, or transgender person in the definition of “family” for all HUD programs; and making it unlawful for housing which is financed or insured through HUD from inquiring about the sexual orientation about any household member. *However, this Federal Rule only applies to public housing programs, not to the private sector.*

The Indiana Fair Housing Law is considered a substantially equivalent state law to the federal Fair Housing Act. This means that state law, at a minimum, is equal to federal fair housing law. Due to this substantial equivalency, the Indiana Civil Rights Commission (ICRC) is able to enter into a contract with HUD to enforce fair housing laws in Indiana on HUD’s behalf. I have attached for you a letter sent by the U.S. Department of Housing & Urban Development (HUD) expressing their concerns related to SB 100. It is HUD’s belief that should SB 100 be passed as drafted, it will likely mean a challenge to substantial equivalency as defined by HUD. As part of the HUD-ICRC contract, HUD pays ICRC per case ruled upon (\$2,600), regardless of outcome, for their work completed. Cases with cause rulings require additional support and can be reimbursed with additional funds (\$3,600). It is my understanding that the ICRC averages about 150 fair housing complaints per year. This could mean a potential loss to the State of Indiana of a minimum of \$390,000 per year on average (150 cases * \$2,600) as well as the loss of Indiana substantial equivalency. Such a loss would result in fair housing complaints being filed and processed with HUD and/or an increase in cases filed in federal and state court.

The Fair Housing Center of Central Indiana urges your vote **against** SB 100. We ask the General Assembly to reconsider new language and pass a bill which provides strong, comprehensive, fair housing protections for LGBT Hoosiers. Unfortunately, SB 100 is not that bill.

The Fair Housing Center of Central Indiana (FHCCI) is a private, non-profit fair housing organization. Its mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. For more information on fair housing or enforcing fair housing rights, visit www.fhcci.org.

