

WISCONSIN CITIZEN ACTION



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Wisconsin's Public-Interest Watchdog

Hearing before the Senate Committee on Labor and Agriculture

Equal Pay Remedies and Enforcement Act SB 232/AB 294

Submitted by David Newman
September 11, 2001

Wisconsin Citizen Action is the state's largest public interest organization and represents 60,000 members and 250 affiliate groups that include labor, environmental, senior citizen, farm, women, and community organizations throughout Wisconsin.

Wisconsin Citizen Action supports the Equal Pay Remedies Bill because it is an issue of economic justice and would ensure that women and men are receiving equal compensation for their hard work.

Wisconsin citizens won't turn their backs on any extra dollars George W. Bush's tax cut might give them, but equal pay for equal work for working families would have a far greater impact. Ending wage differentials would put close to an extra \$5,000 per year back into the pocketbooks for Wisconsin working families, as well as increase savings and pensions during retirement.

Closing the pay gaps between women and men and between white workers and those of color is what equal pay is all about. Compared to tax rate cuts, equal pay clearly provides more economic benefit to working families and has a better potential of increasing consumer spending.

Despite federal and state laws banning discrimination in employment and pay, wage differentials persist between women and men and between minorities and non-minorities in the same jobs and in jobs that require equivalent skills and responsibilities. Many residents of Wisconsin are losing vital income to help support themselves and their families, and equal pay would help workers become economically secure.

Equal pay is also a nonpartisan concern that is strongly supported by women and men across party lines. According to the Center for Policy Alternatives, whether someone is Republican, Democrat or Independent, 75% of women and 62% of men say they believe that it is "very important" to adopt policies to address equal pay. For the past decade, equal pay has been a top priority that unites people across party lines. It is time to deliver on this critical issue for working families.

In America, people's wages should be based on the work to be done, not on the person who holds the job. That's the American way. But for many women and people of color, that American promise remains unfulfilled and families are paying the price. Research shows that women and people of color continue to suffer wage discrimination. Today, women continue to earn only \$0.72 for every dollar earned by men, and African Americans earn \$0.78 and Latinos only \$0.67 for every dollar paid to their white counterparts.

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National Foundation for the Intersexed

...to improve the lives of intersexed and androgynous people.

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Honorable Senators:

As executive director of the National Foundation for the Intersexed, the only organization in the nation focused on funding research to help intersexed persons, I rise to support S.B. 232/A.B. 294 with reservation solely as to its scope.

The National Foundation for the Intersexed was founded this year as the U.S. affiliate of the International Foundation for Androgynous Studies, based in Australia. While the Foundation hopes future research will clarify the issue, it currently entertains a belief that abnormal chromosomal and hormonal conditions are altering the physical appearance and behavior of millions of Americans to conflict with societal expectations. An ever-growing mass of studies by medical and environmental science researchers supports this hypothesis. As a graduate student in the environmental science and policy program at the University of Wisconsin-Green Bay, my thesis shall investigate the possibility that pesticides and other pollutants are altering the behavioral traits of humans directly and as a result of interaction with others.

What I have learned in my research convinces me that perceptions of non-conformity to social expectations of sexual orientation and gender identity are far more significant than actual variance. Therefore, acts of discrimination called "homophobia" by some and defense of family values by other are not sanctions against homosexuality, but against mere perceived homosexuality—an appearance that may not be either accurate or voluntary.

As evidence of this theory I present myself. In spite of my voice, my mannerisms and the overall appearance of my body, it will probably surprise you to learn that I was born male. My appearance is very non-male because my mother was prescribed diethylstilbestrol, or DES, when she carried me. I have not been surgically altered and do not take supplementary hormones, mostly because I do not desire to be female—my sex (defined as it may) is something I endure more than desire. My research and public speaking is simply the best option I have for making my personal tragedy eventually benefit others.

The reasoning behind my decision to adopt female gender is not as relevant here as the fact that through my teenage years and early adulthood, others regularly perceived that I was homosexual. That presumption persisted even though I wanted a girlfriend as much as any heterosexual high school boy ever did. In fact, I was so focused on girls that I did not understand what I was being accused of. For years I thought "faggot" was just a nasty thing you called someone—since I knew I wasn't gay, I was simply unaware why anyone would think I was. But most important, I suffered abuse and threats of violence constantly from young men with hatred for homosexuals.

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While no one should be subjected to homophobic discrimination and violence, biological males who do not virilize into normal men are especially vulnerable to such violence because they are physically weak and often largely friendless. Even more importantly, they tend to attract violence like lightning to a lightning rod simply because their physical abnormality is unavoidably obvious. That many non-virilized males should eventually develop into gay or bisexual men, or even male-to-female transsexuals is understandable given the extreme stress placed upon them.

Despite the relief in stress non-virilized males experience by social adjustment, I have discovered that most people like me suffer grievous permanent emotional trauma that is often physically and mentally debilitating. Intersexed biological males often exhibit stress-related diseases seen much more often in women than men, including chronic fatigue syndrome, fibromyalgia, environmental sensitivity and multiple sclerosis.

Returning to Senate Bill 232, my point in raising the issues of people like me is not to ask for sympathy but to illustrate why the bill cannot be complete until it is amended to protect persons who fail to conform to the gender stereotypes of another. In general, the bill must be amended to cover perceptions of difference in addition to actual difference on the grounds of race, sex, religion, ethnicity, national origin, marital status, current and future pregnancy, conformance to gendered expectations, public assistance status, and disability. Such an amendment will not only protect intersexed persons like myself, it will also give real protection to women whose non-conformity to social expectations includes their assertiveness and self-determination.

Regarding the provision in S.B. 232/A.B. 294 against sex discrimination: The current bill invites any employer to evade the law by claiming that its acts were actually motivated by discrimination upon some ground not covered, such as sexual orientation.* Consequently, no woman may safely compete against a man for promotion and advancement so long as she may be fired under the perception that she is lesbian. Likewise, injustice of heroic proportions shall continue to be perpetuated against the most vulnerable of men, until employers are put on notice that sex discrimination laws cover not just the gender conformity of women, but also men.

In conclusion, S.B. 232/A.B. 294 creates merely a mirage of protection for Wisconsin female and male workers, a law with a greater potential as a trap than a shield for workers. At a minimum, the bill must be amended to cover perceptions of difference, as well as actual difference. Furthermore, the bill must cover discrimination on the basis of gender stereotypes as well as sex. With those changes, Wisconsin will have created one of the best laws in any state for guaranteeing justice for workers.

I would be happy to assist you in modifying the bill, and in providing evidence and testimony to convince your fellow legislators of the need for a bill such as I have suggested here today. I am entirely at your service. Thank you.

Sincerely,



Hannah Miyamoto
Executive Director

* See note attached.

PERSONAL NOTE

Re: Discrimination against women on the basis of perceived sexual orientation

Please review the 1990 decision of the U.S. Supreme Court in Hopkins v. Price-Waterhouse. Hopkins involved a female accountant who, despite her remarkable ability, was considered by her male colleagues to be excessively aggressive for a woman. Testimony established that men regularly challenged her femininity, that she was told she should be more deferential to men, encouraged to wear makeup and jewelry, even a suggestion that she enroll in "charm school." By a heavy majority, the Supreme Court established that sex discrimination encompasses more than direct demands for sex, and maintenance of a hostile environment for women on the basis of their sex, but also maintenance of a hostile environment for women who do not conform to the behavioral expectations others have for women. In short, women must not just be free to be women, but to also be themselves.

While nothing in Hopkins suggests that Ms. Hopkins was believed to be lesbian, one may presume the thought crossed more than one man's mind. "Lesbian" describes more than a sexual practice—it is the modern equivalent of the word "witch." Just as "witch" was once a charge flung at any woman who dared to defy a man, so "lesbian" encompasses the same improvable and indefensible charge. The experience of assertive women as far back as Susan B. Anthony establishes that women will never compete equally against men for employment, pay and advancement until they are protected from discrimination on the ground of sexual orientation.

Hannah Miyamoto

The foregoing not submitted on behalf of the National Foundation for the Intersexed.