



Chair Novotny and Members of the Public Safety Finance and Policy

The Council on LGBTQIA2S+ Minnesotans works for the implementation of economic, social, legal, and political equality for Minnesota's community of people who identify as lesbian, gay, bisexual, transgender, gender expansive, queer, intersex, asexual, and/or two-spirit. The Council strongly opposes HF435, which seeks to assign inmates to prisons based on the sex they were assigned at birth, erasing the experiences of transgender and intersex people and putting them at risk for harm. We encourage a discussion rooted in research and the well-being of all Minnesotans.

The Minnesota Department of Corrections seeks to "achieve justice through promotion of racial equity, restoration from harm, and community connectedness." HF435 threatens these goals by increasing harm to members of the transgender community and limiting their ability to form community connections.

Due to their disproportionate levels of poverty, transgender people are more likely to interact with the criminal justice system than cisgender people<sup>i,ii</sup>. Once in prison, transgender people are also more likely to experience physical harassment and abuse, poor health outcomes, and inconsistent access to medical care<sup>iii</sup>. When housed in a men's facility, studies have shown that transgender women are up to **13x more likely to be sexually assaulted** than cisgender men<sup>iv</sup>. When housed in facilities that match their gender identity, this disparity closes somewhat, but still remains<sup>v</sup>. Similar disparities are seen for inmates with intersex conditions. Importantly, transgender individuals are not only more likely to experience this violence at the hands of other inmates, but also by facility staff<sup>vi,vii,viii</sup>.

As a "protective" factor, transgender inmates are more likely to be placed in solitary confinement than the general prison population<sup>ix</sup>. While this action effectively separates transgender people from the inmates who threaten their safety, it also separates them from the beneficial relationships that they have formed<sup>x</sup>. The psychological distress caused by the social deprivation of solitary confinement is well documented<sup>xi,xii,xiii</sup>.

There is no evidence to support the idea that trans-inclusive policies negatively impact cisgender inmates. Recognizing this fact, after the Prison Rape Elimination Act of 2003 was passed, standards were adopted that state prisons should evaluate where to place transgender inmates on a case-by-case basis<sup>xiv</sup>, giving transgender people the ability to determine which facility they feel would be the safest for them. Minnesota Department of Correction's policies are consistent with federal legislation. We urge the committee to reject HF435 and instead focus on achieving justice through people-centered policies.

Sincerely,

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- <sup>i</sup> Kevin L. Nadal, Kristin C. Davidoff, and Whitney Fujii-Doe, “Transgender Women and the Sex Work Industry: Roots in Systemic, Institutional, and Interpersonal Discrimination,” *Journal of Trauma and Dissociation* 15, 2 (2014): 169 – 183.
- <sup>ii</sup> Sylvia Rivera Law Project, “It’s War in Here: A Report on the Treatment of Transgender and Intersex People in NYS Men’s Prisons,” (2007).
- <sup>iii</sup> Rachel Engelberg et al, “Challenges Unique to Transgender Persons in US Correctional Settings: a Scoping Review,” *Journal of Urban Health* 100 (October 2023): 1170 – 1189.
- <sup>iv</sup> Valerie Jenness et al, “Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault,” (2007). Retrieved from: [http://ucicorrections.seweb.uci.edu/pdf/Executive\\_Summary\\_of\\_Val\\_s\\_PREA\\_report.pdf](http://ucicorrections.seweb.uci.edu/pdf/Executive_Summary_of_Val_s_PREA_report.pdf).
- <sup>v</sup> Sydney Tarzwell, “The Gender Lines are Marked with Razor Wire: Addressing State Prison Policies and Practices for the Management of Transgender Prisoners,” *Columbia Human Rights Law Review* 38 (2006): 167 – 220.
- <sup>vi</sup> Annette Brömdal et al, “Experiences of Transgender Prisoners and Their Knowledge, Attitudes, and Practices Regarding Sexual Behaviors and HIV/STIs: A Systematic Review,” *International Journal of Transgenderism* 20, 1 (2018): 4 – 20.
- <sup>vii</sup> Sandy E. James et al, “National Center for Transgender Equality, Report of the 2015 U.S. Transgender Survey, (2016).
- <sup>viii</sup> Rebecca L. Stotzer, “Law Enforcement and Criminal Justice Personnel Interactions with Transgender People in the United States: A Literature Review,” *Aggression and Violent Behavior* 19, 3(2014): 263 – 277.
- <sup>ix</sup> Gabriel Arkles, “Safety and Solidarity Across Gender Lines: Rethinking Segregation of Transgender People in Detention,” *Temple Political & Civil Rights Law Review* 18, 515 (August 2009).
- <sup>x</sup> Harvard Law Review, “Classification and Housing of Transgender Inmates in American Prisons,” *Harvard Law Review* 127, 6 (April 2014).
- <sup>xi</sup> Leah Drakeford, “Correctional Policy and Attempted Suicide Among Transgender Individuals,” *Journal of Correctional Healthcare* 24, 2 (2018): 171 – 182.
- <sup>xii</sup> Craig Haney, “The Psychological Effects of Solitary Confinement: A Systematic Critique,” *Crime and Justice* 47 (2018).
- <sup>xiii</sup> Keramet Reiter et al, “Psychological Distress in Solitary Confinement Symptoms, Severity, and Prevalence in the United States, 2017 – 2018,” *American Journal of Public Health* 110, S1 (2020): S56 – S62.
- <sup>xiv</sup> National PREA Resource Center, “Frequently Asked Questions,” (2016). Retrieved from: [Does a policy that houses transgender or intersex inmates based exclusively on external genital anatomy violate Standard 115.42\(c\) & \(e\)? | PREA](#)