

February 16, 2022

Via MyMGA

Maryland Senate Judicial Proceedings Committee
11 Bladen St, Annapolis, MD 21401
Annapolis, Maryland 21401

**Re: UNFAVORABLE testimony on SB 550, Correctional Facilities -
Transgender, Nonbinary, and Intersex Inmates**

Members of the Committee: My name is Jennifer Chavez, and Maryland has been my home for the last 13 years. I am also a member of the Women's Liberation Front, a progressive feminist organization fighting for the rights of women and girls. I hereby state my opposition to SB 550 because I have had relatives and loved ones who were incarcerated and others who worked in corrections, and I believe this bill would make life harder and more dangerous for other women like them in Maryland.

This bill states that "an inmate shall be housed at a correctional facility designated for men or women based on the inmate's preference." This means that the bill allows **any incarcerated male** the chance to gain access to vulnerable incarcerated women, simply by claiming that he self-identifies as a woman, or as something other than a man such as "nonbinary."¹ There are no explicit exceptions that would exclude any class of male convicts from women's facilities, even if they are convicted rapists or have other histories of violence against women and girls.

SB 550 confuses, conflates, and misuses the concepts of "sex," "intersex," and "gender." But fixing the language to be more accurate and transparent will not fix the central problem: **Male arrestees and convicted criminals have no place in women's prisons or jails, ever.** The fact that a male may be targeted by other violent males does not somehow mean it is safe to house him with female inmates. All incarcerated males deserve protection from violence and abuse. But the problem of male violence in men's facilities needs to be solved there. Instead, this bill treats incarcerated women as human shields and therapy resources for males who may be vulnerable, or even just claim to feel vulnerable.

This bill recklessly endangers women who are already some of the most vulnerable humans in the nation. According to the ACLU, incarcerated women have extremely high rates of past trauma, with 79% reporting past physical abuse and over 60% reporting past sexual abuse. Further, women in prison are 3-4 times more likely than male prisoners to be victims of such trauma prior to incarceration.ⁱ Over 42% of incarcerated women are lesbian or bisexual.ⁱⁱ Nationwide, lesbian or bisexual individuals are more than 10 times as likely to be sexually victimized by other inmates and more than 2 times as likely to be sexually victimized by staff compared to heterosexuals.ⁱⁱⁱ Incarcerated women in Maryland are highly likely to have been victimized in prostitution.^{iv} As of 2013 Maryland had the second highest rate of sexual abuse of inmates in correctional facilities, with women more likely to be victims than men.^v

¹ While I have chosen to focus on incarcerated females and female corrections staff in women's facilities, it is obvious that SB 550 would also expose transgender-identified females to extraordinary risk of assault and rape in men's facilities, while further causing harm to the privacy and dignity of incarcerated men forced to share a cell with a female, or be searched by transgender-identified female staff.

In the face of these facts, I have to assume that the sponsors of this bill, and its twin in the House, HB 453, failed to study readily-available facts showing how nearly identical laws have played out in other places. Such facts show that women in places as near and far as Illinois, Washington, Canada, and England (and other places) have been assaulted, sexually harassed, and raped by men who were allowed to be housed in women's facilities based on their self-proclaimed gender-identities.^{vi} Correctional officers have also been sexually harassed and humiliated.^{vii}

Policies like SB 550 subject already traumatized incarcerated women to yet more fear and terror. One woman wrote from inside a California prison saying "ever since SB 132 passed I have been living in constant fear. I understand yes I am in prison however I am a survivor of abuse. So to have men incarcerated alongside of me is fearsome."^{viii} Another woman wrote:

In my opinion, as an inmate and a sexual abuse survivor, this is the most terrifying mistake made by people with power. They made an irrational, inconsiderate, malicious bill to please men who feel they have a right to be housed with women because they consider themselves a woman even with male genitals intact.^{ix}

Everything in the bill and its fiscal note makes clear it is aimed at easing the lives of incarcerated males. At no point does this bill explicitly consider the needs, preferences, feelings, or safety of incarcerated women who would be trapped in locked spaces with males who claim to self-identify as women. Nor does it consider the safety of female corrections staff conducting body searches. Instead, it mandates that "staff shall consider the inmate's health and safety," or even his own subjective "perception of health and safety."

The only exception – which is vaguely-worded and completely discretionary – is for "specific and articulable management or security concerns." This exception is practically meaningless because the presence of any male inmate should be recognized as a cause for serious management and security concerns in women's facilities. Indeed, similar language in other jurisdictions has failed to stop **even convicted rapists** from getting into women's jails.^x

Women's prisons and jails exist for women to rehabilitate while doing their time; they do not exist to validate the feelings of a relatively tiny population of male arrestees and convicts. For all these reasons I urge you to return an unfavorable report on SB 550.

Sincerely,

Jennifer Chavez
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SOURCES

ⁱ ACLU, "Women in Prison: An Overview," <https://www.aclu.org/other/words-prison-did-you-know>, and sources cited therein.

ⁱⁱ Meyer, et al., Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011-2012 (2016) <https://pubmed.ncbi.nlm.nih.gov/27997242/>.

ⁱⁱⁱ U.S. Department of Justice, Bureau of Justice Statistics, “Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12,” May 2013 (see Table 8), <https://bjs.ojp.gov/content/pub/pdf/svpjri1112.pdf>.

^{iv} Anne E. Fehrenbacher, et al., 2020: “Exposure to Police and Client Violence Among Incarcerated Female Sex Workers in Baltimore City, Maryland,” *AMERICAN JOURNAL OF PUBLIC HEALTH* 110, S152_S159, <https://doi.org/10.2105/AJPH.2019.305451>; Mary Kane & Mary Dibartolo (2002), “Complex physical and mental health needs of rural incarcerated women,” *ISSUES IN MENTAL HEALTH NURSING*, 23:3, 209-229, DOI: 10.1080/016128402753542974, <https://www.tandfonline.com/doi/abs/10.1080/016128402753542974>

^v Baltimore has high rate of staff-inmate sex,” *BALTIMORE SUN*, May 16, 2013, <https://www.baltimoresun.com/news/crime/bs-xpm-2013-05-16-bs-md-prison-sexual-abuse-20130516-story.html>.

^{vi} *Illinois*: “4 Male Inmates Secretly Moved to a Women’s Prison; One in Isolation After Raping Women,” Jan. 8, 2022, <https://www.womenarehuman.com/4-male-inmates-secretly-moved-to-a-womens-prison-one-in-isolation-after-raping-women/>;

Washington: “Male Rapist of 12-Year-Old Girl Groomed Vulnerable Woman While in Women’s Prison,” Nov. 23, 2021, <https://www.womenarehuman.com/male-rapist-of-12-year-old-girl-groomed-vulnerable-woman-while-in-womens-prison/>

England: “Transgender Policy That Led to Male Sex Offenders in Women’s Jails Set to be Reviewed,” November 6, 2021, <https://www.womenarehuman.com/transgender-policy-that-led-to-male-sex-offenders-in-womens-jails-set-to-be-reviewed/>;

Canada: “Female Prisoners Report Feeling Unsafe Housed With Males,” November 8, 2021, <https://www.womenarehuman.com/female-prisoners-report-feeling-unsafe-housed-with-males/>

^{vii} Lauren Adams testimony to CA Dept. of Corrections about SB 132, Sept. 4, 2021, (male inmates getting erections and making sexual comments to staff during body searches) <https://www.womensliberationfront.org/news/wolfs-lauren-adams-testifies-at-cdcr-hearing>; “Female prison staff ‘uneasy’ about intimate searches of trans inmates,” *The Sunday Times*, Jan. 9, 2022, <https://www.thetimes.co.uk/article/female-prison-staff-uneasy-about-intimate-searches-of-trans-inmates-j5md36sgz>; “Court: No Religious Exemption From Strip-Searches by Opposite-Sex ‘Transgender’ Prison Guards; Plaintiff Files Appeal,” September 24, 2021 (Discussing incarcerated males and female staff), <https://www.womenarehuman.com/court-no-religious-exemption-from-strip-searches-by-opposite-sex-transgender-prison-guards-plaintiff-files-appeal/>.

^{viii} Unnamed Woman, Letters from incarcerated women, June 21, 2021, <https://www.womensliberationfront.org/letters-from-incarcerated-women/ever-since-sb-132-passed-i-have-been-living-in-constant-fear>

^{ix} *Id.*, <https://www.womensliberationfront.org/letters-from-incarcerated-women/you-are-sacrificing-our-safety-just-to-keep-a-few-men-quiet>

^x See California SB 132, and testimony to the CA Dept. of Corrections at Sources, *vii*, above. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB132.