

**2016 Ex. Sess. 2**

**SENATE  
JUDICIARY II**

**MINUTES**



## MEMBERSHIP

### Senate JUDICIARY II Committee 2015-2016 Biennium

MEMBER	ROOM	PHONE
<u>Co-Chair Tamara Barringer</u>	LoB 620	733-5653
<u>Co-Chair Warren Daniel</u>	LoB 623	715-7823
<u>Co-Chair Shirley B. Randleman</u>	LoB 628	733-5743
<u>Sen. John M. Alexander, Jr</u>	LB 2115	733-5850
<u>Sen. Chad Barefoot</u>	LoB 308	715-3036
<u>Sen. Stan Bingham</u>	LoB 625	733-5665
<u>Sen. Angela R. Bryant</u>	LoB 516	733-5878
<u>Sen. Bill Cook</u>	LoB 525	715-8293
<u>Sen. David L. Curtis</u>	LoB 410	715-3038
<u>Sen. Jim Davis</u>	LoB 408	733-5875
<u>Sen. Jeff Jackson</u>	LB 1104	715-8331
<u>Sen. Joyce Krawiec</u>	LB 2117	733-7850
<u>Sen. Paul A. Lowe, Jr</u>	LB 1121	733-5620
<u>Sen. Tom McInnis</u>	LB 2106	733-5953
<u>Sen. Erica Smith-Ingram</u>	LB 1118	715-3040
<u>Sen. Terry Van Duyn</u>	LB 1025	715-3001
<u>Sen. Andy Wells</u>	LB 2113	733-5876
<u>Sen. Mike Woodard</u>	LoB 518	733-4809
Research Bill Patterson	LoB 545	733-2578
Research Janice Paul	LoB 545	733-2578
Committee Clerk Andy Perrigo	LoB 623	715-7823



North Carolina General Assembly  
Through Senate Committee on  
Judiciary

15 Extra 2 Biennium  
Leg. Day: H-1/S-1

Date: 04/18/2016  
Time: 1:44:19 PM

Bill	Introducer	Short Title	Latest Action	Date In	Date Out
<u>H 2</u>	Bishop	Public Facilities Privacy & Security Act.	*R Ch. SL 2016-3	03/23/2016	03/23/2016

'\$' indicates the bill is an appropriations bill.

A bold line indicates that the bill is an appropriations bill.

'\*\*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill



Bill Summaries and Explanatory Memos for **HB 2 - 2016 Second Extra Session** - North Carolina General Assembly

Summary	Description	Last Updated
H2-SMTC-2(e1)-v-1	Public Facilities Privacy & Security Act.	03/23/2016
H2-SMTC-4(e2)-v-2	Public Facilities Privacy & Security Act.	03/23/2016
H2-SMTC-5(sl)-v-3	Public Facilities Privacy & Security Act.	04/13/2016
House Floor Debate Transcript		03/23/2016
House Judiciary IV Committee Transcript		03/23/2016
Senate Floor Debate Transcript		03/23/2016
Senate Judiciary II Committee Transcript		03/23/2016



See Also:

"Available Bill Summaries" page  
for Floor & Committee transcripts

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H1

## House Bill 2 / SL 2016-3

H3

Public Facilities Privacy & Security Act.  
2016 Second Extra Session

VIEW BILL DIGEST	
VIEW AVAILABLE BILL SUMMARIES	
EDITION	FISCAL NOTE
Filed	
Edition 1	
Edition 2	
Ratified	
SL 2016-3	

<b>Last Action:</b>	Ch. SL 2016-3 on 3/23/2016
<b>Sponsors:</b>	Bishop; Stam; Howard; Steinburg (Primary) Adams; Arp; Avila; Bradford; Brody; Burr; Cleveland; Dixon; Elmore; Hager; K. Hall; Hastings; Hurley; Jones; Jordan; Langdon; S. Martin; McElraft; McNeill; Millis; T. Moore; Pittman; Presnell; Riddell; Robinson; Schaffer; Speciale; Torbett; Warren; Watford; Whitmire; Zachary
<b>Attributes:</b>	Public; Text has changed
<b>Counties:</b>	No counties specifically cited
<b>Statutes:</b>	115C, 143, 153A, 160A, 95 (Chapters); 115C-47, 115C-521.2, 143-422.10, 143-422.11, 143-422.12, 143-422.13, 143-422.2, 143-422.3, 143-760, 153A-449, 160A-20.1, 95-25.1 (Sections)
<b>Keywords:</b>	ADMINISTRATION DEPT., BIDS & BIDDING, COMMISSIONS, CONTRACTS, COUNTIES, DISCRIMINATION, EMPLOYMENT, LGBT ISSUES, HUMAN RELATIONS COMN., LOCAL GOVERNMENT, MINIMUM WAGE, MINORITIES, MUNICIPALITIES, PRESENTED, PUBLIC, PURCHASING, RATIFIED, SALARIES & BENEFITS, CHAPTERED, LOCAL ORDINANCES

LATEST 2 VOTES									
DATE	SUBJECT	RCS#	AYE	NO	N/V	EXC.ABS.	EXC.VOTE	TOTAL	RESULT
3/23/2016 6:29 p.m.	Third Reading	[S]-3	32	0	11	6	0	32	PASS
3/23/2016 6:29 p.m.	Second Reading	[S]-2	32	0	11	6	0	32	PASS

HISTORY				
DATE	CHAMBER	ACTION	DOCUMENTS	VOTES
3/23/2016	House	Filed	DRAFT: DRH40005-TC-1B	
3/23/2016	House	Passed 1st Reading		
3/23/2016	House	Ref To Com On Judiciary IV		
3/23/2016	House	Reptd Fav		
3/23/2016	House	Cal Pursuant Rule 36(b)		
3/23/2016	House	Added to Calendar		
3/23/2016	House	Amend Tabled A1	A1: AMS-1-V-5	FAIL: 35-72
3/23/2016	House	Amend Failed A2	A2: AMS-2-V-4	FAIL: 35-72
3/23/2016	House	Amend Adopted A3	A3: Scanned Document	PASS: 107-0
3/23/2016	House	Amend Adopted A4	A4: ATC-1-V-1	PASS: 108-0
3/23/2016	House	Passed 2nd Reading		PASS: 82-26
3/23/2016	House	Passed 3rd Reading		PASS: 82-26
3/23/2016	House	Ordered Engrossed		
3/23/2016	House	Special Message Sent To Senate		
3/23/2016	Senate	Special Message Received From House		
3/23/2016	Senate	Passed 1st Reading		
3/23/2016	Senate	Ref To Com On Judiciary II		
3/23/2016	Senate	Reptd Fav		
3/23/2016	Senate	Placed on Today's Calendar		
3/23/2016	Senate	Passed 2nd Reading	Roll Call Vote	PASS: 32-0
3/23/2016	Senate	Passed 3rd Reading		PASS: 32-0
3/23/2016	Senate	Ordered Enrolled		
3/23/2016		Ratified		
3/23/2016		Pres. To Gov. 3/23/2016		
3/23/2016		Signed by Gov. 3/23/2016		







**Senate Committee on Judiciary II**  
**Wednesday, March 23, 2016 at During First Recess**  
**Room 643 of the Legislative Office Building**

**MINUTES**

The Senate Committee on Judiciary II met at During First Recess (4:20 pm) on March 23, 2016 in Room 643 of the Legislative Office Building. 17 members were present.

Senator Shirley B. Randleman, Chair, presided.

Sgt at Arms: Terry Barnhardt, Larry Hancock, Steve McKaig, Matt Urben, Dale Huff.

**HB 2 Public Facilities Privacy & Security Act.. (Representatives Bishop, Stam, Howard, Steinburg)**

Chair Randleman opened the meeting by recognizing the Sergeant-At-Arms and the Co-chairs, Senator Daniel and Senator Barringer. Chair Randleman noted the sign-up sheet for members of the public who wanted to speak in support or opposition to the proposed bill. Chair Randleman called the bill before the committee and recognized Representative Bishop and Senator Newton to explain the bill before the committee. Senator Newton explained the background that led to the bill and gave a simple explanation. Representative Bishop had no further comments before staff was directed to explain the bill in detail. Kara McCraw of the Legislative Analysis Division explained the bill. Chair Randleman opened up discussion to the committee. Senator Bingham asked a clarifying question regarding one of the definitions. Senator Newton responded to the question and staff helped explain further. Senator Van Duyn asked a procedural question regarding the consideration of amendments to which Chair Randleman responded that the amendments would be taken up after further discussion. Senator J. Jackson asked a question regarding the Human Relations Commission and the private right of action section in the bill; "does it modify existing law in NC?" Senator Newton responded that it was the intent to "keep the status quo" and that it does not change anything that is currently in existing law for bringing a private right of action. Senator J. Jackson asked a follow-up question, clarifying the statements made by Senator Newton. Senator Newton affirmed his previous statements. Senator J. Jackson asked a separate question about a potential loss of Title IX funding. Senator Newton responded to the question, claiming no risk to the potential of losing Title IX funding, citing the rejection of these claims twice in court. Representative Bishop added that there is not a case in the country where the current Executive Administration's view of discrimination against transgendered individuals has been upheld or recognized. Representative Bishop also added that, if a court did hold the Administration's view as correct, there would be plenty of time, and even entitlement to a hearing in order to change the law. In addition to these remedies, if an affirmative ruling was made in favor of the Administration's view, and federal law was amended thus, it would supersede North Carolina law, citing federal supremacy principles. Senator Cook made a comment in favor and support of the bill. Senator McInnis asked a question regarding the protections that would be expanded across the state through the language in the bill. Senator Newton expounded upon the issue of public accommodation and statewide anti-discrimination policy. Senator McInnis made follow-up a comment in favor and support of the bill. Senator Newton made a statement in reply. Senator Randleman directed the Sergeant-At-Arms to pass

out the proposed amendments. Amendment Number 1: H2-ATC-2 [v.3], sponsored by Senator Lowe, was before the committee. Kelly Tornow of the Legislative Analysis Division was recognized to explain the amendment. Senator Lowe was recognized to speak to the amendment. The main concern bringing forward the amendment was the lack of a private right of action. Senator Bishop commented on the amendment, making note of the previous statements that there are other remedies for individuals who are treated discriminatorily. Senator Newtown echoed these sentiments and clarified the current law. Both sponsors of the bill were opposed to the amendment. Senator Lowe clarified his reasoning behind the amendment. Senator Newton explained further the remedies available and encouraged an unfavorable vote towards the amendment. Senator J. Jackson commented on the amendment. Representative Bishop responded to the comments. Senator Newton also responded to the comments. No further comments, Chair Randleman called for a vote on Amendment 1. Amendment 1 failed. Amendment Number 2: H2-AST-1 [v.3], sponsored by Senator Van Duyn was before the committee. Kelly Tornow was recognized to explain the amendment. Senator Van Duyn was recognized to speak to the amendment. Senator Newton, in response, asked a question to clarify certain language in the amendment. Senator Newton then made comments of opposition towards the amendment. Senator Van Duyn made further comments in favor of her amendment. Senator Newton responded to the comments, urging the committee to vote unfavorably towards the amendment. Senator Daniel asked a rhetorical question regarding the purpose of the amendment and its relationship to the reason the bill was necessary. Senator Newton agreed with the comment. Senator Barefoot suggested and moved that Amendment 2 be tabled. The motion was seconded by Senator Daniel. Chair Randleman asked for a raise of hands supporting the motion. Chair Randleman asked for a raise of hands opposing the motion. The motion carried and Amendment 2 was laid upon the table. Having no further comments from the committee, Chair Randleman opened the floor for public comment. 5 speakers in opposition and 5 speakers in support, alternating and each having 2 minutes to speak.

Rev. Michael Slack, a local preacher, spoke against the bill. Transgendered individuals are not a threat. The bill is not about protecting privacy. The bill puts transgendered individuals at risk due to violence occurring in restrooms. The bill reflects a lack of research and understanding. Heather Garofalo, a Charlotte business-owner, spoke in favor of the bill. This bill allows private business owners to operate free from fear of being unjustly punished by the government. In 2015 the Pew Charitable Trust Organization identified the top 10 states for business growth. 8 out of those 10 do not have state nondiscrimination laws containing language around sexual orientation and gender identity. Not one case has been filed in Charlotte by the ACLU alleging discrimination that may have occurred against a member of the LGBT community. As a business-owner, the [Charlotte] ordinance has potential unintended consequences such as lawsuits, fines, jail time, and a loss of revenue for Charlotte if businesses withdraw contracts. Deborah Thomson, a parent, spoke against the bill. The education of her transgendered child will be compromised. Transgendered youth go to extreme measures in order to avoid using the bathroom at school. 74% of transgendered youth are sexually harassed. 55% are physically attacked. 28% drop out of school because of harassment. 50% attempt suicide. This bill gives permission to harass, exclude, and bully transgendered youth. Donna Eaton, a mother and victim of sexual assault, spoke in favor of the bill. The trauma of the memories can be brought to light by acts resulting from the Charlotte ordinance. Without the bill, people with malicious intent can masquerade as transgendered to gain access to restrooms with potential victims. Stand up for all North Carolinians who are at risk of being victimized.



Lara Nazario, a veteran and transgendered individual, spoke against the bill. In public, there is fear about discrimination based on physical appearance coupled with presentation. The Charlotte ordinance would create an environment to allow transgendered individuals to live a normal life. Removing the protections in the ordinance would set the whole state back.

John Rustin, president of the NC Family Policy council, spoke in favor of the bill. The Charlotte ordinance changes are hazardous and highly controversial. Three primary concerns come up as a result of these changes. First, men can enter women's restrooms, shower facilities, and any other public accommodation in Charlotte, placing the privacy, safety, and dignity of women, children, and the elderly at risk. The city's broad definition of public accommodation causes the ordinance to apply to any business or organization providing goods or services – no exceptions being made for churches or other church affiliates. Second, many citizens holding sincere religious beliefs, used to conduct their lives and businesses, would be at risk of lawsuit and other government penalties. The city should not be allowed to mandate such terms as a condition of doing business. Third, Charlotte exceeded its authority passing this ordinance.

Skye Thomson, a transgendered youth, spoke against the bill. State lawmakers are bullying transgendered individuals. Transgendered students are physically bullied. It is embarrassing to not be able to use the preferred bathroom. These restrictions put transgendered youth in danger.

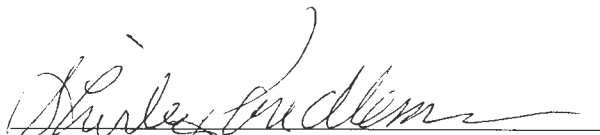
John Amanchukwa, Executive Director for the Upper Room Christian Academy, spoke in favor of the bill. Neutrality is a form of collaboration and betrayal. Push back against neutrality, for the countless students, teachers, administrators, and parents who know the impending harm of the ordinance. It is common sense that boys should go to the boys' restroom and girls should go to the girls' restroom. If God did not give an individual access to the other restroom by anatomy, neither should ordinance nor legislation.

Maggie Kadel, a resident, spoke against the bill. The Charlotte ordinance would help keep people from being questioned when they only want to use the restroom. A transgendered individual born overseas is unable to change the birth certificate. According to the bill, a transgendered person would be required to use the women's restroom, even if they looked like a man, due to their inability to change their birth certificate.

Rev. Mark Creech, Executive Director of the Christian Action League, spoke in favor of the bill. The League and the thousands of churches in connection with the League thank the legislature for addressing the urgent matter at hand. The Charlotte Ordinance defies logic, catering to a very few and embracing a purely subjective reality, requiring the remaining individuals to adjust their reality to align. The real victims are private businesses and churches being required by the government to make certain recognitions contrary to their best interests.

Chair Randleman recognized Senator Newton to make closing remarks. Senator Bingham moved to report the bill favorably. Senator Alexander seconded the motion. Chair Randleman called for the vote. The motion carried and the bill was reported by the clerk: Favorable.

The meeting adjourned at 5:30 pm.



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Senator Shirley B. Randleman, Chair  
Presiding



\_\_\_\_\_  
Patrick Limer, Committee Clerk





**Senate Committee on Judiciary II**  
**Wednesday, March 23, 2016, During First Recess**  
**643 Legislative Office Building**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 2	Public Facilities Privacy & Security Act.	Representative Bishop Representative Stam Representative Howard Representative Steinburg

**Presentations**

**Other Business**

**Adjournment**



GENERAL ASSEMBLY OF NORTH CAROLINA  
SECOND EXTRA SESSION 2016

H

2

HOUSE BILL 2  
Second Edition Engrossed 3/23/16

Short Title: Public Facilities Privacy & Security Act. (Public)

Sponsors: Representatives Bishop, Stam, Howard, and Steinburg (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to:

March 23, 2016

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND  
CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES AND TO CREATE  
STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYMENT AND PUBLIC  
ACCOMMODATIONS.

Whereas, the North Carolina Constitution directs the General Assembly to provide for  
the organization and government of all cities and counties and to give cities and counties such  
powers and duties as the General Assembly deems advisable in Section 1 of Article VII of the  
North Carolina Constitution; and

Whereas, the North Carolina Constitution reflects the importance of statewide laws  
related to commerce by prohibiting the General Assembly from enacting local acts regulating  
labor, trade, mining, or manufacturing in Section 24 of Article II of the North Carolina  
Constitution; and

Whereas, the General Assembly finds that laws and obligations consistent statewide for  
all businesses, organizations, and employers doing business in the State will improve intrastate  
commerce; and

Whereas, the General Assembly finds that laws and obligations consistent statewide for  
all businesses, organizations, and employers doing business in the State benefit the businesses,  
organizations, and employers seeking to do business in the State and attracts new businesses,  
organizations, and employers to the State; Now, therefore,  
The General Assembly of North Carolina enacts:

**PART I. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING  
FACILITIES**

**SECTION 1.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

"(63) To Establish Single-Sex Multiple Occupancy Bathroom and Changing  
Facilities. – Local boards of education shall establish single-sex multiple  
occupancy bathroom and changing facilities as provided in G.S. 115C-521.2."

**SECTION 1.2.** Article 37 of Chapter 115C of the General Statutes is amended by  
adding a new section to read:

**"§ 115C-521.2. Single-sex multiple occupancy bathroom and changing facilities.**

**(a) Definitions. – The following definitions apply in this section:**

**(1) Biological sex. – The physical condition of being male or female, which is  
stated on a person's birth certificate.**



\* H 2 - V - 2 \*

(2) Multiple occupancy bathroom or changing facility. – A facility designed or designated to be used by more than one person at a time where students may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility may include, but is not limited to, school restroom, locker room, changing room, or shower room.

(3) Single occupancy bathroom or changing facility. – A facility designed or designated to be used by only one person at a time where students may be in various states of undress. A single occupancy bathroom or changing facility may include, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.

(b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Local boards of education shall require every multiple occupancy bathroom or changing facility that is designated for student use to be designated for and used only by students based on their biological sex.

(c) Accommodations Permitted. – Nothing in this section shall prohibit local boards of education from providing accommodations such as single occupancy bathroom or changing facilities or controlled use of faculty facilities upon a request due to special circumstances, but in no event shall that accommodation result in the local boards of education allowing a student to use a multiple occupancy bathroom or changing facility designated under subsection (b) of this section for a sex other than the student's biological sex.

(d) Exceptions. – This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:

(1) For custodial purposes.

(2) For maintenance or inspection purposes.

(3) To render medical assistance.

(4) To accompany a student needing assistance when the assisting individual is an employee or authorized volunteer of the local board of education or the student's parent or authorized caregiver.

(5) To receive assistance in using the facility.

(6) To accompany a person other than a student needing assistance.

(7) That has been temporarily designated for use by that person's biological sex."

**SECTION 1.3.** Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 81.

"Single-Sex Multiple Occupancy Bathroom and Changing Facilities.

**"§ 143-760. Single-sex multiple occupancy bathroom and changing facilities.**

(a) Definitions. – The following definitions apply in this section:

(1) Biological sex. – The physical condition of being male or female, which is stated on a person's birth certificate.

(2) Executive branch agency. – Agencies, boards, offices, departments, and institutions of the executive branch, including The University of North Carolina and the North Carolina Community College System.

(3) Multiple occupancy bathroom or changing facility. – A facility designed or designated to be used by more than one person at a time where persons may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility may include, but is not limited to, a restroom, locker room, changing room, or shower room.

(4) Public agency. – Includes any of the following:

a. Executive branch agencies.

b. All agencies, boards, offices, and departments under the direction and control of a member of the Council of State.

c. "Unit" as defined in G.S. 159-7(b)(15).



d. "Public authority" as defined in G.S. 159-7(b)(10).

e. A local board of education.

f. The judicial branch.

g. The legislative branch.

h. Any other political subdivision of the State.

(5) Single occupancy bathroom or changing facility. – A facility designed or designated to be used by only one person at a time where persons may be in various states of undress. A single occupancy bathroom or changing facility may include, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.

(b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Public agencies shall require every multiple occupancy bathroom or changing facility to be designated for and only used by persons based on their biological sex.

(c) Accommodations Permitted. – Nothing in this section shall prohibit public agencies from providing accommodations such as single occupancy bathroom or changing facilities upon a person's request due to special circumstances, but in no event shall that accommodation result in the public agency allowing a person to use a multiple occupancy bathroom or changing facility designated under subsection (b) of this section for a sex other than the person's biological sex.

(d) Exceptions. – This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:

(1) For custodial purposes.

(2) For maintenance or inspection purposes.

(3) To render medical assistance.

(4) To accompany a person needing assistance.

(4a) For a minor under the age of seven who accompanies a person caring for that minor.

(5) That has been temporarily designated for use by that person's biological sex."

## **PART II. STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND CONTRACTING**

**SECTION 2.1.** G.S. 95-25.1 reads as rewritten:

**"§ 95-25.1. Short title and legislative purpose; ~~purpose~~; local governments preempted.**

(a) This Article shall be known and may be cited as the "Wage and Hour Act."

(b) The public policy of this State is declared as follows: The wage levels of employees, hours of labor, payment of earned wages, and the well-being of minors are subjects of concern requiring legislation to promote the general welfare of the people of the State without jeopardizing the competitive position of North Carolina business and industry. The General Assembly declares that the general welfare of the State requires the enactment of this law under the police power of the State.

(c) The provisions of this Article supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to compensation of employees, such as the wage levels of employees, hours of labor, payment of earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not apply to any of the following:

(1) A local government regulating, compensating, or controlling its own employees.

(2) Economic development incentives awarded under Chapter 143B of the General Statutes.

(3) Economic development incentives awarded under Article 1 of Chapter 158 of the General Statutes.



(4) A requirement of federal community development block grants.

(5) Programs established under G.S. 153A-376 or G.S. 160A-456."

**SECTION 2.2.** G.S. 153A-449(a) reads as rewritten:

"(a) Authority. – A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by ~~any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees,~~ regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public as a condition of bidding on a contract or a qualification-based selection, except as otherwise required or allowed by State law."

**SECTION 2.3.** G.S. 160A-20.1(a) reads as rewritten:

"(a) Authority. – A city may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the city is authorized by law to engage in. A city may not require a private contractor under this section to abide by ~~any restriction that the city could not impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees,~~ regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public as a condition of bidding on a contract or a qualification-based selection, except as otherwise required or allowed by State law."

### **PART III. PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS**

**SECTION 3.1.** G.S. 143-422.2 reads as rewritten:

**"§ 143-422.2. Legislative declaration.**

(a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, biological sex or handicap by employers which regularly employ 15 or more employees.

(b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.

(c) The General Assembly declares that the regulation of discriminatory practices in employment is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to the regulation of discriminatory practices in employment, except such regulations applicable to personnel employed by that body that are not otherwise in conflict with State law."

**SECTION 3.2.** G.S. 143-422.3 reads as rewritten:

**"§ 143-422.3. Investigations; conciliations.**

The Human Relations Commission in the Department of Administration shall have the authority to receive charges of discrimination from the Equal Employment Opportunity Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this process, the agency shall use its good offices to effect an amicable resolution of the charges of discrimination. This Article does not create, and shall not be construed to create or support, statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein."



"Article 49B.

**"§ 143-422.10. Short title.**

**"§ 143-422.11. Legislative declaration.**

(b) The General Assembly declares that the regulation of discriminatory practices in places of public accommodation is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement pertaining to the regulation of discriminatory practices in places of public accommodation.

For purposes of this Article, places of public accommodation has the same meaning as defined in G.S. 168A-3(8), but shall exclude any private club or other establishment not, in fact, open to the public.

The Human Relations Commission in the Department of Administration shall have the authority to receive, investigate, and conciliate complaints of discrimination in public accommodations. Throughout this process, the Human Relations Commission shall use its good offices to effect an amicable resolution of the complaints of discrimination. This Article does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein."

**SECTION 4.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable. If any provision of this act is temporarily or permanently restrained or enjoined by judicial order, this act shall be enforced as though such restrained or enjoined provisions had not been adopted, provided that whenever such temporary or permanent restraining order or injunction is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

**SECTION 5.** This act is effective when it becomes law and applies to any action taken on or after that date, to any ordinance, resolution, regulation, or policy adopted or amended on or after that date, and to any contract entered into on or after that date. The provisions of Sections 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3 of this act supersede and preempt any ordinance, resolution, regulation, or policy adopted prior to the effective date of this act that purports to regulate a subject matter preempted by this act or that violates or is not consistent with this act, and such ordinances, resolutions, regulations, or policies shall be null and void as of the effective date of this act.







## HOUSE BILL 2: Public Facilities Privacy & Security Act.

2016-2017 General Assembly

<b>Committee:</b>	Senate Judiciary II	<b>Date:</b>	March 23, 2016
<b>Introduced by:</b>	Reps. Bishop, Stam, Howard, Steinburg	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	Second Edition		Committee Co-Counsel

### **SUMMARY:** *House Bill 2 would:*

1. *Require single sex multiple occupancy bathrooms and changing facilities in public schools and public agencies.*
2. *Supersede and preempt all local ordinances, regulations, or resolutions imposing any requirements on employers pertaining to compensation of employees, with certain exceptions.*
3. *Prohibit cities and counties from requiring private contractors to abide by regulations or controls on employment practices or mandate or prohibit provision of goods, services, or accommodations to any member of the public, except as required by State law.*
4. *Supersede and preempt any local ordinance, regulation, or resolution that regulates or imposes any requirements on employers pertaining to regulation of discriminatory practices in employment.*
5. *Create a State law pertaining to discrimination in public accommodations. Supersede and preempt any local ordinance, regulation, or resolution that regulates or imposes any requirements pertaining to regulation of discriminatory practices in a place of public accommodation.*

**BILL ANALYSIS:** House Bill 2 would make the following changes:

### **PART 1: SINGLE SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING FACILITIES**

**Sections 1.1, 1.2, and 1.3:** Require local boards of education and public agencies to designate and require use of single sex multiple occupancy bathroom and changing facilities based on a person's biological sex, as stated on that person's birth certificate.

- Local boards of education and public agencies would be permitted to provide accommodations upon request due to special circumstances, but such accommodations could not include use of a single sex multiple occupancy bathroom or changing facility designated for the opposite biological sex.
- Exceptions to the requirements include the following: custodial use, maintenance or inspection, medical assistance, assistance in facility, and use of a facility temporarily designated for use by that biological sex.

### **PART 2: STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND CONTRACTING**

**Section 2.1:** As part of the State Wage and Hour Act, would supersede and preempt ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political subdivision regulating or imposing any requirements on employers pertaining to compensation



# House Bill 2

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of employees. Local governments would not be prohibited from regulating or imposing employee compensation requirements in the following areas:

- Employees of the local government.
- Economic development incentives awarded under Chapter 143B.
- Economic development incentives awarded under the Local Development Act of 1925.
- Federal community development block grants.
- Community development programs and activities established by cities and counties under G.S. 153A-376 or G.S. 160A-456.

**Section 2.2 and 2.3:** Current law authorizes counties and cities to contract for any public purpose, but prohibits contract provisions that create restrictions the county could not impose on all employers in the county.

Section 2.2 and 2.3 would instead prohibit counties and cities from requiring private contractors to abide by the following, except as otherwise required or allowed by State law:

- Regulations or controls on the contractor's employment practices.
- Mandates or prohibitions on the provision of goods, services, or accommodations to any member of the public.

## **PART III: PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS**

**Section 3.1:** Current state law declares the public policy of the State to protect and safeguard the rights and opportunities of all persons to employment without discrimination on the basis of race, religion, color, national origin, age, sex, or handicap by employers of 15 or more.

Sec. 3.1 would clarify the protected class of sex as "biological sex".

Sec. 3.1 would declare the regulation of discriminatory practices in employment an issue of general statewide concern, and supersede and preempt ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political subdivision regulating or imposing any requirements on employers relating to regulation of discriminatory practices in employment, except regulations related to that body's own personnel that do not otherwise conflict with State law.

**Section 3.2:** Would state that neither statutory nor common law private rights of action are created by the Equal Employment Practices Article, and no person may bring a civil action based on the public policy expressed in that Article.

**Section 3.3:** Would establish a new Article, "Equal Access to Public Accommodations," declaring the public policy of the State to protect and safeguard the right and opportunities of all individuals to enjoy fully and equally places of public accommodation without discrimination on the basis of race, religion, color, national origin, or biological sex.

An exception would allow the provision of multiple or single occupancy bathrooms or changing rooms based on biological sex.

Sec. 3.3 would also declare the regulation of discriminatory practices in a place of public accommodation an issue of general statewide concern, and supersede and preempt ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political subdivision regulating or imposing any requirements on employers relating to regulation of discriminatory practices in a place of public accommodation.

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Sec. 3.3 would authorize the Human Relations Commission in the Department of Administration to receive, investigate, and conciliate complaints of discrimination in public accommodations and use best efforts to affect amicable resolutions.

Sec. 3.3 would also state that neither statutory nor common law private rights of action are created by the Equal Access to Public Accommodations Article, and no person may bring a civil action based on the public policy expressed in that Article.

**Section 4** would provide for severability of each provision of the act.

**EFFECTIVE DATE:** House Bill 2 would become effective when it becomes law, and would apply to any action taken on or after that date, to any ordinance, resolution, regulation, or policy adopted or amended on or after that date, and to any contract entered on or after that date. Sections 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3 of the act would supersede and preempt any ordinance or resolution adopted prior to the effective date of the act that purports to regulate a subject matter preempted by this act or that violates or is not consistent with the act, and such ordinances, resolutions, regulations, or policies would be null and void as of the effective date.







NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 2

AMENDMENT NO. 1  
(to be filled in by  
Principal Clerk)

H2-ATC-2 [v.3]

Page 1 of 1

Amends Title [NO]  
Second Edition

Date March 23, 2016

Senator Lowe

- 1 moves to amend the bill on page 5, lines 29-31, by rewriting those lines to read:  
2  
3 "offices to effect an amicable resolution of the complaints of discrimination."

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

X

TABLED



\* H 2 - A T C - 2 - V - 3 \*





NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 2

AMENDMENT NO. 2  
(to be filled in by  
Principal Clerk)

H2-AST-1 [v.3]

Page 1 of 1

Amends Title [NO]  
Second Edition

Date Mar 23, 2016

Senator Van Duyn

1 moves to amend the bill on page 4, line 28, by inserting between "age," and "biological" the  
2 phrase "sexual orientation, gender identity";  
3  
4 and on page 5, line 12, by inserting between "national origin," and "or" the phrase "sexual  
5 orientation, gender identity".  
6

SIGNED

Therry Van Duyn

Amendment Sponsor

SIGNED

Shirley Randlema

Committee Chair in Senate Committee Amendment

ADOPTED

FAILED

TABLED

X

Motion to lay on table - Barefoot  
12/5 70% 2nd Daniel  
Carried



\* H 2 - A S T - 1 - V - 3 \*



1.

18-07

Shirley F. Williams

Notice to pay as follows:  
12/2 70%  
Cash



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**JUDICIARY II COMMITTEE REPORT**

**Senator Barringer, Co-Chair**

**Senator Daniel, Co-Chair**

**Senator Randleman, Co-Chair**

Wednesday, March 23, 2016

Senator Randleman,  
submits the following with recommendations as to passage:

**FAVORABLE**

HB 2

Public Facilities Privacy & Security Act.

Draft Number: None

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 1

Senator E.S. Newton will handle HB 2



\* C M R 2 - V - 1 \*



Oppose HB2

SENATE JUDICIARY II PROSPECTIVE SPEAKER  
SIGN-IN

NAME

ORGANIZATION

BILL  
NO.

① Rev. Michael Slack ✓

② Deborah Thomson ✓ parent

③ Lara Nazario ✓

④ skye Thomson ✓

⑤ Maggie Kadel ✓

Chris Sgro Equality NC.

Lee Hooper



Support HB 2

## SENATE JUDICIARY II PROSPECTIVE SPEAKER SIGN-IN

NAME	ORGANIZATION	BILL NO.
✓ Heather Garofalo	Charlotte Business- 2 Woman & Mom	
✓ Donna Eaton	Victim of sexual assault 2	
✓ John Rustin	NC Family Policy Council	
✓ John Amankwakwa	Upper Room Christian School	
→ Pat O'Neal	(Not sure he is here) Charlotte businessman	
✓ Mark Creech	Christian Action League	



## SENATE JUDICIARY II VISITOR SIGN-IN

DATE 3/23/2016

NAME	ORGANIZATION	BILL NO.
<u>Deborah Thomson</u>	<u>Citizen</u>	
<u>Rev. Mykal Slack</u>	<u>Community Minister</u>	
<u>CSGO</u>	<u>ENC</u>	<u>#2</u>
<u>Samuel M. &amp; Tyla Bolivar</u>	<u>Out Lo.</u>	<u>#B2</u>
<u>Magdalena Kuhl</u>		<u>#B2</u>
<u>Skye Thompson</u>		<u>#B2</u>
<u>Mara Keisling</u>	<u>NCTE</u>	
<u>CHARLIE CONERO</u>	<u>community advocate</u>	<u>-41 percent</u>
<u>Robert Morrison</u>	<u>Retired</u>	
<u>Dannan Clark</u>	<u>LRB SUB 1050</u>	





## SENATE JUDICIARY II VISITOR SIGN-IN

DATE 3/23/2016

NAME	ORGANIZATION	BILL NO.
<u>Liam Hooper</u>	<u>self</u>	<u>HB2</u>
<u>Jenny Palmer</u>	<u>SHIFT NC</u>	<u>HB2</u>
<u>Steven Marge</u>	<u>NCRLA</u>	
<u>Bon Gramann</u>	<u>Equality NC</u>	<u>HB2</u>
<u>Joe Ryall</u>	<u>NCFPC</u>	<u>H2</u>
<u>Adam Pridemore</u>	<u>NCAAA</u>	
<u>Amy Lisa</u>	<u>PPSAT</u>	<u>HB2</u>
<u>Emmy Boyd</u>	<u>PPSAT</u>	<u>HB2</u>
<u>Dan Fenton</u>	<u>City of Charlotte</u>	



DATE \_\_\_\_\_

## SENATE JUDICIARY II VISITOR SIGN-IN

NAME	ORGANIZATION	BILL NO.
SAIRA MAXWELL	N/A	
Ramona Jinn	Stolen Concerned Citizens	HB 2
E.A. Timm	N/A	
Sarah Preston	ACLU-DC	HB 2
Mike Monro	ACLU-NC	HB 2
Paul Blest	Indy Week	HB 2
Hugh Johnson		
Cassandra Hester	NCAAC	
Johanna Reese	NCAAC	
Caleb Hetheron	Paul Tuck NC	



DATE \_\_\_\_\_

## SENATE JUDICIARY II VISITOR SIGN-IN

NAME	ORGANIZATION	BILL NO.
Bill Rowe	NC Justice Ctr	2
PETRINA WILLIAMS	NC VALUES	COALITION
GRAYSON GRECO	NC VALUES	COALITION
John Amick	URCA	
Kellie Fiedorek	ADF	
Heather Gonzalo	Bus. owners	chan 1017
Donna Eaton	Concerned mom	
Madeline Goss	NC Equality	
Alexander Adams	Unaffiliated	
Joanna Davidson	NA	



DATE \_\_\_\_\_

## SENATE JUDICIARY II VISITOR SIGN-IN

NAME

ORGANIZATION

BILL  
NO.

Joanne Spataro

Lara Nazario

Jim Quick

BEDFORD

HB2

K. Mueller

Muller Group

HB2

Jamie Hyatt

NC Values Coalition

HB2

John Rastki

NCFPC

Jake Sree

NCFPC

Samuel Ginter

NEHC

Chris Wall

PG

Steve Matcally

PG





DATE \_\_\_\_\_

## SENATE JUDICIARY II VISITOR SIGN-IN

NAME \_\_\_\_\_

## ORGANIZATION

BILL  
NO.

REV. MARK CLEETH

CAL

Austin McDonald

2

Crystal Richardson ENC

2

Erin Wynia

NCLM





# SENATE JUDICIARY II *VISITOR SIGN-IN*

DATE 3/23/2016

NAME

ORGANIZATION

BILL  
NO.

Serena Sebring SANG HB 2

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