

LGBT Activists Now Taking Aim at Another Southern State

Fresh off its “victory” in Georgia on Monday, the LGBT movement took aim at another southern state, launching a federal lawsuit against a bill signed into law Friday.

Lambda Legal, the American Civil Liberties Union, ACLU of North Carolina, and Equality North Carolina filed a lawsuit challenging North Carolina’s HB 2, also known as the Public Facilities Privacy & Security Act. The law was enacted as a result of the City of Charlotte’s decision to proceed with a “transgender bathroom ordinance.”

The state law made it illegal to allow those who have changed their gender to use multiple-occupancy bathrooms other than the one that matches their biological sex. In enacting the law, the legislature and Gov. Pat McCrory deemed the Charlotte ordinance exceeded the city’s legal authority under the North Carolina Constitution.

“North Carolina is one of at least 37 states like Virginia where cities and towns cannot pass rules or regulations that exceed the authority given to them by the state,” McCrory’s office stated in a press release over the weekend. “In passing the bathroom ordinance, Charlotte was exceeding its authority and setting rules that had ramifications beyond the City of Charlotte. The legislature acted to address privacy and safety concerns if this ordinance was allowed to go into effect on April 1.”

HB 2 passed both chambers of the North Carolina legislature with bipartisan support. However, the lawsuit targets McCrory, North Carolina Attorney General Roy Cooper, and the University of North Carolina.

In the complaint filed by Lambda Legal and the ACLU in the

U.S. District Court for the Middle District of North Carolina, they allege that through HB 2, North Carolina “sends a purposeful message” that LGBT people are “second-class citizens who are undeserving of the privacy, respect, and protections afforded others” in the state. Their complaint argues HB 2 violates the Equal Protection and Due Process clauses of the Fourteenth Amendment and Title IX.

“We’re challenging this extreme and discriminatory measure in order to ensure that everyone who lives in and visits North Carolina is protected under the law,” ACLU of North Carolina Legal Director Chris Brook said. “This cruel, insulting and unconstitutional law is an attack on fairness in employment, education and local governance that encourages discrimination against thousands of LGBT people who call North Carolina home, and particularly targets transgender men and women. HB 2 aims to override local school board policies, local public accommodations laws and more.”

Tara Borelli, an attorney with Lambda Legal said the North Carolina legislature was using its power to require cities, counties, and school districts to discriminate. She said HB 2 was a “targeted and unprecedented attack on the LGBT community,” particularly against transgendered people.

“Clearly HB 2 is unconstitutional as it not only violates the guarantees of equal protection and due process in the U.S. Constitution but it also violates Title IX by requiring discrimination in education,” she said. “North Carolina legislators cannot strip equality out of the Constitution and the law.”

Chris Sgro, Executive Director of Equality NC, a statewide LGBT advocacy group, said some legislators’ “rhetoric” leading up to passage of HB 2 demonstrated their “anti-LGBT motives” and bigotry. He also accused legislators of keeping the bill a secret until it was introduced.

“It only took 12 hours to pass and sign into law a bill with terrible consequences for thousands of North Carolinians,” he said. “North Carolina may also now face a loss of federal education funding, revenue from businesses that relocate or choose not to set-up shop here, and potential income-generating sporting and entertainment events.”

Plaintiffs in this case are Joaquín Carcaño, 27, a transgendered UNC-Chapel Hill employee; Payton McGarry, 20, a transgendered UNC-Greensboro student; and Angela Gilmore, 52, a lesbian North Carolina Central University law professor.

“HB 2 is hurtful and demeaning,” Carcaño said. “I just want to go to work and live my life. This law puts me in the terrible position of either going into the women’s room where I clearly don’t belong. or breaking the law

“But this is about more than bathrooms, this is about my job, my community, and my ability to get safely through my day and be productive like everyone else in North Carolina.”

McCrory’s office, while it has not yet directly responded to the lawsuit publicly, released a Q&A press release about HB 2 over the weekend. It does address some of the complaints made by the plaintiffs.