

Phantom threats

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In recent weeks, North Carolina passed a law requiring transgender people to use the public restrooms of the gender listed on their birth certificates. Legislators in Tennessee, Kansas, South Carolina, and Minnesota are considering similar measures. (Another bill with that intent passed the legislature in South Dakota but was vetoed by the governor.)

Meanwhile, legislators in Georgia approved a bill that would allow business owners to refuse to cater same-sex weddings or other events that violate their religious beliefs. And Mississippi passed a law protecting the rights of pastors not to perform same-sex ceremonies.

Besides representing a backlash against the movement for equality for LGBTQ people, these legislative efforts have this in common: they are solutions in search of a problem. In vetoing the bill passed in Georgia, Governor Nathan Deal said he was not aware of any examples of situations in the state that required such protections.

South Dakota governor Dennis Daugaard said the bill he vetoed didn't address any pressing issues, and it infringed on local control. If and when issues arise about transgender people's use of school bathrooms, he said, "I believe local school officials are best positioned to address them."

Defenders of North Carolina's law, which was signed by Governor Pat McCrory, say they are worried that boys will don dresses in order to sneak into girls' bathrooms and that men will pose as transgender in order to assault women in locker rooms. But there is no evidence that transgender people pose this kind of threat. There is plenty of evidence, however, that public spaces can be dangerous places for transgender people. Furthermore, as county sheriff Leon Lott told lawmakers in South Carolina, this kind of legislation is unenforceable, for it would require police to inspect people's genitals.

In explaining his veto of a bill ostensibly framed to protect religious liberty in Georgia, Governor Deal noted that the Founding Fathers were wise "not to list in detail the circumstances that religious liberty embraced." The First Amendment is sufficient, he said, to protect religious liberty, and it does so without singling out anyone for discrimination. Certainly the First Amendment is sufficient to protect any pastor from being forced to perform a religious ceremony.

Pursuing phantom problems can be dangerous as well as distracting. It ends up cultivating a culture of fear, encouraging discrimination, and preventing honest political dialogue. Kudos to the governors in Georgia and South Dakota for rejecting these dangerous diversions.