



No Need to “Conform State Law to *Lawrence v. Texas*”

Applicable Bills: **House Bill 100**

House Bill 100 should be rejected, as it would establish a pro-sodomy law in North Carolina.

House Bill 100 proposes to “conform” North Carolina’s “crime against nature” statute to the U.S. Supreme Court’s 2003 decision in *Lawrence v. Texas*¹, which struck down a Texas sodomy law criminalizing homosexual sexual activity.

North Carolina General Statute §14-177 addresses “Offenses against Public Morality and Decency” and defines “crime against nature” in the following manner, “*If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon.*” This law finds its genesis in Elizabethan Law and has been the policy of this state since its founding.

House Bill 100 would modify N.C.G.S. §14-177 by directing that our crime against nature law, “*does not apply if the conduct engaged in . . . is not with a beast, is not unlawful under Article 27 of Chapter 14 of the General Statutes [prostitution], and is between mutually consenting adults in a private home, private residence, or other private abode.*”

HB 100 would establish sodomy as a lawful and protected activity under North Carolina law as long as it is conducted between consenting adults in private and is not for hire. Please consider the following points:

- The U.S. Supreme Court’s ruling in *Lawrence v. Texas* represents the present “law of the land,” and the passage of HB 100 would have no effect on its status in North Carolina.
- The Supreme Court could reverse the *Lawrence* decision or render an opinion in the future that significantly limits the scope of *Lawrence*. If and when this occurs, North Carolina would be stuck with a pro-sodomy statute, should HB 100 be enacted into law.
- A future decision impacting the scope of *Lawrence* is well within the realm of possibility, as Chief Justice John Roberts and Associate Justice Samuel Alito were appointed to the court after the *Lawrence* decision was issued.
- The *Lawrence* decision itself is evidence that the U.S. Supreme Court could reverse or limit the scope of *Lawrence* in the future. As part of the *Lawrence*, the Supreme Court reversed its own 1986 *Bowers v. Hardwick*² decision in which the Court upheld the constitutionality of a Georgia law criminalizing sodomy.
- Sodomy is a harmful behavior that involves significant health risks and public policy concerns. Please see “The Physical Health Risks of Homosexuality” for more information.³

ACTION: Please OPPOSE House Bill 100.

¹ *Lawrence v. Texas*, 539 U.S. 558 (2003).

² *Bowers v. Hardwick*, 478 U.S. 186 (1986).

³ ElHage, Alysse, “The Health Risks of Homosexuality,” *Family North Carolina*, July/August 2007. (<http://www.ncfamily.org/FNC/0707S3.html>)

The Physical Health Risks of Homosexuality

What are some of the physical consequences of homosexual behavior?

by Alysse ElHage

Caution: Mature audiences only. Some content is graphic in its description.

Writing in their 1989 gay manifesto, After the Ball, Marshall Kirk and Hunter Madsen, Ph.D., offered the homosexual community the following strategy: “In the early stages of the campaign, the public should not be shocked and repelled by premature exposure to homosexual behavior itself. Instead, the imagery of sex per se should be downplayed, and the issue of gay rights reduced, as far as possible, to an abstract social question...”

Since those words were penned in the late 80s, gay activists have been extremely successful at instituting Kirk and Madsen’s advice. In large part, the legitimization of homosexuality has been achieved through efforts that conceal the realities of homosexual sex behind the rhetoric of civil rights, such as the enactment of special rights laws, “safe” school initiatives, and the positive portrayal of gays and lesbians in the media. The message the public consistently hears is that homosexuality is normal, and that homosexual acts are one aspect of the myriad of ways that human beings relate sexually.

Despite its success at making homosexuality appear socially acceptable, the gay rights movement cannot sever homosexual behavior from the serious health risks associated with it and the related public consequences.

Defining Behavior

What gets lost in the debate over homosexual “rights” is the fact that

active homosexuality involves specific sexual behaviors that come with a higher risk of bodily harm and disease. While homosexuals engage in a wide range of sexual activities, certain behaviors are common to men who have sex with men (MSM) and to lesbians.

The Foundation for AIDS Research (amfAR) lists the following sexual activities as part of the “repertoire of MSM”: unprotected receptive anal intercourse, unprotected insertive anal intercourse, and oral sex. Some MSM also engage in anilingus, or “rimming,” which is oral/anal contact between partners. Among lesbians, common sexual practices include: oral-genital sex, vaginal or anal sex using hands, fingers, or penetrative sex toys, and oral-anal sex.

Anal Sex. Although it is certainly not exclusive to homosexuals, anal sex has a long history of association with male homosexual activity, and is considered one of the highest risk sexual behaviors for both men and women. According to the Gay and Lesbian Medical Association (GLMA), “a significant percentage of MSMs—as many as one in three—have some incidence of unprotected anal sex.”

According to a 2000-2002 study of HIV-positive MSM in 16 states, 30 percent of sexually active MSM reported engaging exclusively in oral sex, and 13 percent reported engaging exclusively in anal sex at their last sexual encounter, while 55 percent reported both behaviors. Overall, 40 percent reported insertive anal intercourse at their last sexual encounter.

Multiple Partners. Homosexuality is also associated with a higher number of lifetime sexual partners, which puts both men and women at an increased risk of disease. A 1995 Massachusetts Youth Risk Behavioral Surveillance found that gay, lesbian, and bisexual orientation was associated with having sexual intercourse

before age 13, having four or more sexual partners in a lifetime, and experiencing sexual contact against their will.

MSM enrolled in a study published in the American Journal of Public Health in 2003 reported a median number of seven male sex partners over the previous six months, with 42.2 percent reporting 10 or more male partners. A 1997 study of young gay and bisexual men found that 91 percent reported an average of 43 male sexual partners in their lifetime.

Substance Abuse. Another high-risk behavior associated with both male and female homosexuality is drug and alcohol use. The GLMA states that gay men have a higher rate of drug use than the general population. Some of the most popular drugs among MSM include: “poppers” (amyl nitrate), Ecstasy, marijuana, and amphetamines. Some studies indicate that lesbians also may use illegal drugs more often than heterosexual women. In addition, homosexual men and women also have higher rates of alcohol use and abuse than heterosexual men and women. Substance abuse among MSM and lesbians is a serious concern, as drug and alcohol use is linked to high risk sexual behaviors, such as multiple partners and unprotected anal sex.

Dangerous Behaviors

The federal Centers for Disease Control and Prevention (CDC) and other health agencies report a disturbing increase in high-risk sexual behaviors and substance abuse among some groups of MSM in recent years. Media reports also confirm a trend in dangerous behaviors among MSM, such as:

- Barebacking. A June 2006 article in the homosexual newspaper, The Washington Blade, examined the popularity of

“barebacking” (anal sex without a condom) among some MSM. Barebacking is popular at gay circuit parties, which are weekend-long dance events for gay and bisexual men, where drugs and sex are prevalent. One study of MSM attending gay circuit-parties published in 2005 found that 29 percent reported multiple sexual partners over the weekend, with 47 percent of these reporting anal sex without a condom. A six-city study of homosexual men published in the *American Journal of Public Health* in 2003 found that 48.0 percent reported unprotected receptive anal sex, and 54.9 percent reported unprotected insertive anal sex.

• **Bug chasing.** Another disturbing phenomenon among some MSM involves HIV-negative MSM who actively seek HIV infection by engaging in high-risk sexual activities with infected male partners. A 2003 *Rolling Stone* article brought national attention to “bug-chasing,” which the article described as “an intricate underground world that has sprouted, driven almost completely by the Internet, in which men who want to be infected with HIV get together with those willing to infect them.” Carlos, a “bug chaser” who claimed to have had several hundred sexual partners and said he regularly had sex with three or four HIV-positive men a week, told *Rolling Stone*, “I know what the risks are...But I think it turns the other guy on to know that I’m negative and that they’re bringing me into the brotherhood. That gets me off, too.”

• **Party Drugs.** The use of various party drugs, such as methamphetamine (or “crystal meth”), is also on the rise among some MSM. Crystal meth is a highly addictive drug that affects the central nervous system and can be smoked, snorted, orally ingested, injected or used rectally. Meth use among MSM is such a growing problem that in 2006, the GLMA conducted its own study of the issue, concluding that “approximately 10 to 20 percent of gay men” reported meth use in the past six months, which is at least 10 times higher than the rate among the general population. The GLMA study found that 36 percent of MSM attending circuit parties reported using meth, as well as 28 percent of MSM ages 15–22 in major urban areas. According to the CDC, drugs like meth “may be used to decrease social inhibitions and enhance sexual

experiences” and “are strongly associated with risky sexual practices among MSM.”

Health Risks

While the homosexual community, the media, and many in the medical profession portray homosexuality as healthy and normal, homosexual behaviors put individuals at risk for serious physical health problems. Because male homosexual behavior is particularly dangerous, it will be discussed at length.

• **Physical Damage.** Homosexual men who engage in anal sex are at a significantly high risk for numerous health problems. The high-risk nature

oral/anal contact) also exposes individuals to fecal matter, which can lead to a number of gastrointestinal infections, such as proctitis, enteritis, and proctocolitis.

• **Anal Cancer.** Homosexual men are also at an increased risk for anal cancer. According to the American Cancer Society, risk factors for anal cancer include: Human papilloma virus (HPV), which causes anal and/or genital warts; multiple sexual partners; and anal intercourse. Due to concerns about anal cancer, some health professionals now recommend anal Pap Smears for MSM.

• **STDs.** Compared to heterosexual men, MSM are at an increased risk of contracting a number of dangerous STDs,

The legitimization of homosexuality has been achieved through efforts that conceal the realities . . .

of anal sex is simple: the rectum was not designed for sexual intercourse. According to amfAR, “compared to the vagina, rectal tissue is much more vulnerable to tearing during intercourse and the larger surface area of the rectum/colon provides more opportunity for viral penetration and infection.”

In her book, *Epidemic*, Dr. Meg Meeker, a pediatrician, writes: “The anus opens into the rectum...which is not as well suited for penile penetration as the female vagina is. Both the anus and the rectum have rich blood supplies, and their walls, thinner than the walls of the vagina, are easily damaged. When penetration occurs, it’s easier to tear the blood vessels, which in turn increase the risk of acquiring or receiving an infection...”

Physical injuries that can result from anal sex include: bleeding, lacerations, and perforations of the rectum and/or anal sphincter muscles. Once this damage occurs, open sores, hemorrhoids, and anal warts can result. Anal sex (as well as

including HIV/AIDS. According to the GLMA, these STDs include: “urethritis, proctitis, pharyngitis, prostatitis, hepatitis A and B, syphilis, gonorrhea, chlamydia, herpes, genital warts and HIV infection.”

Recent studies indicate that some STDs, such as gonorrhea and syphilis, are increasing among MSM. For example, gonorrhea diagnoses for MSM increased from four percent in 1988 to 20.2 percent in 2004, according to the CDC. The syphilis rate among MSM has also increased in cities such as Chicago, New York and Seattle. After reaching an all-time low in 2000, the overall rate of primary and secondary (P&S) syphilis has increased for the fifth year in a row, mainly among men. According to the CDC, increased rates of syphilis among MSM “may be largely responsible” for this. The CDC estimates that more than half of P&S syphilis cases in recent years occurred among MSM.

MSM also have a higher risk of contracting STDs that cause liver

disease. According to the CDC, liver diseases such as Hepatitis A and B “disproportionately affect men who have sex with men.” About 10 percent of all new Hepatitis A (HAV) infections in the US are to MSM. The CDC says that HAV is primarily spread by the “fecal-oral route...through close person-to-person contact, such as household or sex contact with an infected person.”

According to the CDC, Hepatitis B (HBV), which is spread through infected blood, is also higher in MSM, who experience 15-20 percent of all new HBV infections. Risk factors of HBV for MSM

by 13 percent from 2001 to 2005.

In May 2007, the U.S. Food and Drug Administration (FDA) renewed its 15-year policy banning men who have had sex with men at any time since 1977 from donating blood. The FDA’s explanation for the policy includes the following facts:

- “Men who have had sex with men since 1977 have an HIV prevalence 60 times higher than the general population, 800 times higher than first time blood donors, and 8000 times higher than repeat blood donors.”

- “MSM also have an increased risk of having other infections that

the risk is the fact that some lesbians who have sex with men also engage in other high-risk behaviors, such as sex with MSM, injection drug use, and exchange of sex for drugs or money.

Lesbians who only have sex with other women are still at risk for certain STDs. According to the U.S. Department of Health and Human Services (DHHS), “lesbian women can transmit STDs to each other through skin-to-skin contact, mucosa contact, vaginal fluids, and menstrual blood,” as well as through the sharing of sex toys. Common STDs that can be passed between lesbians include: Bacterial vaginosis (BV); HPV, Trichomoniasis, Herpes; and syphilis. BV is more common in lesbian and bisexual women than in heterosexual women.

Cancer Risks. Certain cancers are more common among lesbians, specifically breast cancer and various gynecological cancers (uterine, cervical, endometrial and ovarian). According to the DHHS, factors that may increase the cancer risk among lesbians include: the fact that lesbians are generally less likely to bear children, and higher rates of alcohol use and obesity among lesbians.

... homosexual behavior represents a serious threat to individual and public health.

include: multiple partners, unprotected receptive anal sex, and a history of other STDs, as well as injection drug use.

HIV/AIDS. Despite efforts by gay activists to disassociate homosexuality from the spread of AIDS, homosexual behavior, particularly among males, is associated with an increased risk of HIV. Although HIV can be transmitted through both vaginal and anal intercourse, receptive anal sex without a condom is at least 10 times more risky for contracting HIV than vaginal sex without a condom, according to amfAR.

Not surprisingly, MSM experience the majority of HIV/AIDS diagnoses. According to the CDC, MSM accounted for 72 percent of all HIV infections among men in 2005 (this includes men who have sex with men and inject drugs). Among all individuals diagnosed with HIV/AIDS in 2005, MSM accounted for 53 percent of cases.

Recent studies in cities across the U.S. show an alarming increase in HIV infection among homosexual men, particularly in young MSM. The CDC reports that the number of HIV/AIDS diagnoses for MSM (including MSM who inject drugs) increased

can be transmitted to others by blood transfusion. For example, infection with the Hepatitis B virus is about five to six times more common and Hepatitis C virus infections are about two times more common in men who have sex with men than in the general population.”

What About Lesbians?

It is generally assumed that female homosexuality is less risky than male homosexuality. Although it is true that MSM experience significantly more physical health risks than women who only have sex with women, lesbians are not immune to STDs and experience other health concerns that are worthy of note.

STDs. According to the CDC, there is little data available on the risk of STD transmission during female-to-female sexual activity. This may be due in part to the fact that the majority of lesbians have also had sex with men, which greatly increases their STD risk. The CDC reports that 53 percent to 99 percent of lesbians have had sex with men and “might continue to” have sex with men in the future. Compounding

Conclusion

Although homosexuality is presented to society as a healthy—and sometimes even superior—alternative to heterosexuality, the truth is that homosexual behavior represents a serious threat to individual and public health. Homosexuality, particularly among males, is associated with dangerous behaviors and increased rates of disease ranging from certain cancers to a long list of STDs, including HIV/AIDS. As recent studies show, many homosexuals continue to engage in high-risk behaviors that ignore the very real consequences to their health and the health of others. The public deserves honest information about the sexual realities of the homosexual lifestyle and the serious health risks that come with it. v

Alysse ElHage is a senior research associate with the North Carolina Family Policy Council. For a footnoted copy of this article, go to ncfamily.org