

Comments to House Bill 1333 to House Judiciary Committee 1/23/2023

Chairman Klemin and honorable members,

I am Tracy Potter, a resident of District 35 in Bismarck. I urge a do not pass recommendation from your committee on HB 1333 because it is unnecessary, poorly defined, an intrusion into parental rights and intrusive on artistic expression and commercial enterprise.

State obscenity control statutes in NDCC 12.1-27.1 already protect minors from performances aimed at eliciting prurient interest. They also prohibit exhibitions to minors “that are patently offensive to prevailing standards in the adult community of North Dakota as a whole with respect to what is suitable for children.” This means that if female or male impersonation is patently offensive it is already prohibited for children. If it is not patently offensive, what justifies the bill? The obscenity statutes focus on a whole list of sexual conduct, none of which involve dressing so as to impersonate a member of the opposite sex.

Stage acting as a member of the opposite sex is as old as Shakespeare and the Globe Theatre and more recently in Tootsie and one of my favorite movies, Some Like it Hot. What was hot about that movie and aimed by the director to elicit some prurient interest was not Tony Curtis and Jack Lemmon dressing in drag, but Marilyn Monroe being Marilyn Monroe.

As far as putting an age limit on attendance at shows with male or female impersonators, you would be putting state law in loco parentis, suggesting that state government knows better than parents what their 16-year-old children should see at the Civic Center. No “Go-Go Dancers?” Really? So if there is a Broadway Musical reviving the 60s or 70s and including Go-Go dancers at the Bismarck Civic Center, minors can’t go? Well, actually no if this passed because the Civic Center couldn’t host it because the bill also bans these performances on all public property. Shakespeare in the Park on the Capitol Grounds. Casting could be a problem in high school plays if not enough boys show up for auditions and some male parts can’t be filled by female students.

This bill could have way too many unintended consequences. It is unnecessary, poorly defined and a government overreach into North Dakota family life.

I urge you to recommend the House do not pass HB 1333.