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The Honorable Joan Huffman  
Texas Senate Committee on State Affairs  
PO Box 12068  
Austin, Texas 78711

The Honorable Bryan Hughes  
Texas Senate Committee on State Affairs  
PO Box 12068  
Austin, Texas 78711

Dear Chair Huffman and Vice Chair Hughes:

On behalf of Americans United's chapters, members, and supporters across the state of Texas, we write today concerning SB3 and SB 91, which will be debated by the State Affairs Committee tomorrow. If passed, these discriminatory bills would cause real harm to real people by prohibiting them from using the bathroom in public schools and other public buildings that corresponds with their gender identity. Many who support this bill are pushing false, harmful, and even dangerous rhetoric about transgender people. As an organization dedicated to religious freedom, we are writing to dispel the myth that these bills are necessary or even support religious freedom.

Religious freedom is a fundamental American value. It guarantees us all the right to believe, or not, as we see fit. It also ensures people can practice their faith, so long as they do not harm or discriminate against others.

In fact, the First Amendment to the U.S. Constitution places limitations on the government's ability to accommodate religious beliefs and practices. As explained by the United States Supreme Court: "an accommodation must be measured so that it does not override other significant interests"<sup>1</sup> or "impose unjustified burdens on other[s]."<sup>2</sup>

Denying people access to the bathroom surely harms and discriminates against transgender people. Using the restroom is a basic human need we all share. Transgender people, especially public school students, want to enjoy the same opportunities and access to public schools and government services as any other person. If transgender people are denied access to the bathroom, they are also denied access to school and basic government services. They will face discrimination, will be stigmatized, and will be robbed of their dignity.

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<sup>1</sup> *Cutter v. Wilkinson*, 544 U.S. 709, 722 (2005).

<sup>2</sup> *Id.* at 726. See also, e.g., *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2760, 2781-82 & n.37; *id.* at 2786-87 (Kennedy, J., concurring); *Holt v. Hobbs*, 135 S. Ct. 853, 867 (Ginsburg, J., concurring); *Texas Monthly, Inc. v. Bullock*, 480 U.S. 1, 18 n. 8 (1989).

People of faith have many and varied, deeply held religious and moral beliefs about transgender individuals. Many faith leaders and congregations view full equality of LGBT Texans as a moral imperative and strongly oppose the legislation. And faith leaders on the other side are also engaged in the debate. All have the right to make their voices heard. The Constitution, however, forbids official preference for one set of religious and moral beliefs over others.<sup>3</sup> It also prohibits the legislature from discriminating against a class of individuals based on vague public unease or even heartfelt moral disapproval.<sup>4</sup> For lawmakers, the “obligation is to define the liberty of all, not to mandate [their] own moral code.”<sup>5</sup>

We hope these you will keep these essential constitutional principles in mind as you consider SB 3 and SB 91 and uphold religious freedom and equal protection of the law.

Sincerely,



Maggie Garrett  
Legislative Director

cc: Members of the Senate State Affairs Committee

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<sup>3</sup> See, e.g., *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Larson v. Valente*, 456 U.S. 228, 244-46 (1982).

<sup>4</sup> *Romer v. Evans*, 517 U.S. 620, 631-32 (1996); *U.S. Dep’t of Agric. v. Moreno*, 413 U.S. 528 (1973).

<sup>5</sup> *Lawrence v. Texas*, 538 U.S. 558, 571 (2003) (internal quotation marks omitted).