

# Lambda Legal urges OH court to axe law banning same-sex propositions

by Peg Byron  
Special to Q-Notes

ASHTABULA, OH — Lambda Legal Defense and Education Fund has joined forces with the Ashtabula County Public Defender to urge the Ohio Supreme Court to review a case challenging the state's importuning law, which criminalizes expressions of sexual interest between people of the same sex. Similar heterosexual overtures are not regulated. Lambda filed a brief in the case arguing that the law violates guarantees of equal protection and free speech, and should be stricken down. Both the Ohio Association of Criminal Defense Lawyers and the Ohio Human Rights Bar Association signed onto Lambda's brief.

"This law condemns lesbians and gay men for the mere expression of romantic or sexual attraction," said Senior Staff Attorney Heather C. Sawyer of Lambda's Chicago office. "Despite more common street harassment of women by men, the State doesn't regulate similar behavior between persons of opposite sexes. Its decision to single out same-sex [advances] fosters hostility and discrimination against lesbians and gay men."

She added, "This irrational law harms gay people who may serve time in jail, lose their jobs, professional licenses, even friends and family relationships if arrested or convicted under this statute. Simple speech should not bring such harsh consequences."

Under the Ohio statute, it is a first-degree misdemeanor for someone to make a sexual advance toward a person of the same sex, should that advance be found offensive. The penalty can include up to six months in jail and a fine of up to \$1000. The law covers advances that involve nothing more than words, but only if the words are directed at a person of the same sex.


"When an unwanted sexual advance becomes physical or escalates to disorderly conduct, the state has laws that appropriately apply to non-gay and gay people alike," noted Sawyer.

But the disorderly conduct statute, in contrast with the harsher importuning statute, can bring a fine of no more than \$100 and no jail time.

The case, *State of Ohio v. Thompson*, stems from the conviction of a man who propositioned a male jogger in Ashtabula County, about 60 miles east of Cleveland. When the jogger asked to be left alone, Thompson complied, but the jogger then complained to police. Thompson was charged and convicted with violating the importuning law and sentenced to six months in jail; he appealed. The State's Eleventh District Court of Appeals found that Ohio's same-sex importuning law violates the equal protection clause, but it upheld the law and Thompson's conviction based on a prior ruling from the Ohio Supreme Court.

Lambda's amicus brief supports the request for Supreme Court review filed by Ashtabula County Public Defender Marie Lane, who represented Thompson at trial and on appeal.

In response to the requests for review from Lambda and the Public Defender, the State of Ohio also has called on its Supreme Court to take up this case to determine if the law violates Ohioans' equal protection rights or "more fully explain why the statute does not violate the equal protection clauses under the United States and Ohio Constitutions." ▼



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