


## Con Law 1 Glossary

- **Appeal:** A proceeding to have a case examined by a higher court to see if a lower court's decision was made correctly according to law.
- **Appellant:** The party who takes an appeal to a higher court.
- **Respondent:** The party against whom an appeal is taken.
- **Argument:** A reason given in proof or rebuttal to persuade a judge or jury.
- **At Issue:** Whenever the parties to an action come to a point in the pleadings or argument which is affirmed on one side and denied on the other, the points are said to be "at issue".
- **Bench:** The Judge's seat or the judge, himself/herself, (e.g., the attorney addressed the bench).
- **Counsel:** Lawyer or attorney.
- **Decision:** The determination reached by a court in any judicial proceeding, which is the basis of the judgment or order.
- **Petition:** A formal written request to a court; also used to initiate a special proceeding.
- **Third Degree Rape:** when he or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old or when they engage in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent. Rape in the third degree is a class E felony.
- **Narrowly Tailored:** the legal principle that a law be written to specifically fulfill only its intended goals.
- **Fourteenth Amendment:** states that every person born in the US is a citizen. States must follow due process of law before taking away any citizen's rights or property.
- **Due Process:** fair treatment through the normal judicial system, especially as a citizen's entitlement.

<div></div> <div>ALLIANCE OF NEW YORK STATE YMCAs YOUTH AND GOVERNMENT Legislative Bill</div>	Bill # S-24
	Referred to Committee: Senate 4
Authors: Teresa Tran, Emily Weiss	Action on the Bill
WWW.YMCANYS.ORG/YAG	<div>AssemblySenate</div> <div><div><div><div><div></div></div><div>Passed</div></div><div><div><div></div></div><div>Defeated</div></div></div><div><div><div></div></div><div>Passed</div></div><div><div><div></div></div><div>Defeated</div></div></div>

## AN ACT

**TO:** Amend I 240.31 of the aggravated harassment in the first degree law to include denying the access of any restroom as a first degree aggravated harassment charge.

### Purpose

The purpose of this bill is to charge those who deny the use of any restroom to any person with aggravated harassment in the first degree.

### Summary of Provisions

#### Section 1; Definitions

Transgender – The term transgender is used to describe a person when they identify as the sex they were not biologically born as.

First Degree Harassment – Intentionally and repeatedly harassing another person by following them in a public place, or Engaging in a course of conduct which places another person in reasonable fear of physical injury.

#### Section 2:

I 240.31 Aggravated harassment in the first degree.

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, deny the access of any restroom, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

### Justification

The problem's adolescents, teens and adults are facing today can and will be resolved in a way of preventing transgender individuals from being denied the privilege of expressing themselves and using the desired restroom, without any verbal and/or physical abuse. This bill will minimize the amount of cases of harassment within restrooms and the LGBTQ+ community, in which one will be charged with aggravated first degree under any circumstance, when denying one the privilege to anyone in a public restroom. The twenty third report of a homicide of a transgender or gender nonconforming person in 2016 had surpassed the tragic number of homicides that transgender and gender nonconforming communities experienced in 2015. California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington are all states in which prohibit discrimination against transgender individuals and have decreased the amount of incidents in public facilities including restrooms.

### Fiscal Implications

There are no fiscal implications to this bill.

### Effective Date

This bill will go into effect immediately after its passage.

**2018 Conference  
Con Law Case # 1**

John Hathorne, Appellant

v.

State of New York, East State College, Respondent

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*Facts of the Case:*

East State College is a four-year public liberal arts college in New York State. It is part of the State University of New York ("SUNY") system. The campus is divided between the Academic Quad and four residence halls. The residence halls are named after the four men who became President of the United States after serving as Governor of New York: Van Buren, Cleveland, Roosevelt, and FDR. FDR houses all of the freshman students. Cleveland and Roosevelt have mostly larger suites for groups of upperclassman.

Van Buren is the special interest dormitory. Groups or organizations of students who share a common, special interest can petition the University for a hallway in Van Buren. Examples include fraternities and sororities, sports clubs, and volunteer organizations. The organization is then given the full autonomy to manage the hall, including selection of roommates and settings the suite rules by which they agree to live. Each hallway had six rooms and two shared bathrooms.

Due to the limited amount of housing space, if a special interest suite does not have enough roommates to fill the suite, then the College will assign people to the suite. Individual students can ask to be assigned to Van Buren by filling out a special interest dormitory request form in which they have to agree to abide by the rules of any special interest hall to which they are assigned.

In 2015, John Hathorne ("Hathorne") was a freshman student at East State College, majoring in American Literature. Hathorne was truly affected by the book *The Scarlet Letter*. He decided to adhere to strict, joyless moral and religious principles of the Puritans. Hathorne often preached to his fellow students about moral and ecclesiastical purity in conformity with their interpretation of the Bible.

At the end of his freshman year, Hathorne applied to the College for two adjoining special interest halls in the Van Buren dormitory hall, one for Puritan women and a second for Puritan men. The College approved his request. The men's and women's halls adjoined one another on the same floor of the Van Buren dormitory hall. There was one bathroom on each hall.

Hathorne required the student applicants to conform to Puritan teachings while living on his special interest halls. He adopted a charter for the hall that was consistent with Puritanism ideals. Hathorne was able to fill all but one room on the special interests halls.

Sam Sewall ("Sewall"), another East State College student, thought it would be fun to live on a special interest hall and to learn about something new. He decided to apply to live in Van Buren.

He filled out the special interest dormitory request form and was randomly assigned to the Puritan women's hall.

Sewall was born physically female. When he began at East State College, he had not yet self-identified as transgendered. However, shortly into the school year while living on the Puritan women's hall, he embraced his transgendered feelings and began transitioning to male.

Sewall wanted to use the men's bathroom on the Puritan's men's hall, rather than the closer women's bathroom on the Puritan women's hall. He spoke with Hathorne about it. Hathorne believed that Sewall's gender identity was contrary to Puritan ideals. Hathorne and the other roommates objected to Sewall's use of the men's bathroom. They made it a rule that all students use the bathroom corresponding with their biological gender. Hathorne even made a sign to that effect and posted it to the bathroom doors. Sewall ignored the rule and sign. He insisted on using the men's bathroom.

Eventually, Hathorne resorted to physically blocking Sewall preventing him from entering the bathroom. There was a physical altercation between Hathorne and Sewall. Hathorne put his arms across the doorframe and used his body as a barricade when Sewall tried to enter the bathroom. Sewall attempted to force his way into the bathroom by pushing one of Hathorne's arms out of the way. Hathorne responded by physically shoving Sewall, thereby throwing him back against the opposite wall. Hathorne's shove caused Sewall to hit his head on the opposite wall. The paramedics and police were called.

Hathorne was arrested for violating YMCA Bill S-24, which makes it a crime to deny access of any restroom to a person based on their status as transgender. Hathorne challenged the constitutionality of the law. Hathorne argued that YMCA Bill S-24 is unconstitutional because it substantially burdens the exercise of his religious beliefs, as well as his First Amendment right to freedom of association, and is not narrowly tailored to further a compelling state interest. The State of New York argued that YMCA Bill S-24 is constitutional because it is a neutral law of general applicability. The State also noted that the law is necessary to protect the equal protection rights of transgendered individuals, such as Sewall.

The trial court found that the statute was constitutional and sentenced Hathorne to six months imprisonment. Hathorne now appeals.

Attorney General (Team 1) represents the State of New York, Respondent  
Public Defendant (Team 2) represents John Hathorne, Appellant

The following cases are the only cases you may use in your brief. If other cases are cited in the attached cases, you may cite them but only for the paragraphs from the attached cases.

**YMCA Youth and Government Law S-24 (2017)**

***Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014)**

***Employment Div. v. Smith*, 494 U.S. 872 (1990)**

***Boy Scouts of Amer. v. Dale*, 530 U.S. 640 (2000)**

***Brown v. Bd. of Ed.*, 347 U.S. 483 (1954)**

## Con Law Case #1

Attorney General Cassidy Connelly represents: State Of New York, East State College, Respondent  
Public Defender Sean Connolly represents: John Hathorne, Appellant

John Hathorne, Appellant

v.

State of New York, East State College, Respondent

Facts of the case:

In March 2017, Youth and Government Bill S-24 was passed to amend I 240.31.

The purpose of this bill is as follows:

**"To charge those who deny the use of any restroom to any person with aggravated harassment in the first degree."**

Bill S-24 allows any person who denies the access of any restroom to any person to be charged with aggravated harassment in the first degree. After this bill was passed Hathorne challenged the constitutionality. He argued that the Bill S-24 is unconstitutional because it substantially burdens the exercise of his religious beliefs.

The state of New York argues that YMCA Bill S-24 is constitutional because it is a neutral law of general applicability. The state also believes the law is necessary to protect the equal protection rights of transgendered individuals.

### John Hathorne (represented by Public Defender Sean Connolly) contend that:

1. Youth and Government Bill S-24 is unconstitutional because it burdens the exercise of Hathorne's religious beliefs
2. Appellant argues that Bill S-24 is not narrowly tailored to a compelling state interest.
3. Decisions of the courts should be overturned, due to Hathorne's beliefs that Sewall's identity was a contrary to Puritan ideas, and he has freedom to religion.

### State of New York (represented by Attorney General Cassidy Connelly) contend that:

1. Youth and Government Bill S-24 is constitutional and is necessary to protect the equal rights of transgendered individuals.
2. Bill S-24 is a neutral law of general applicability.
3. Due to the assault performed by John Hathorne, he should be charged under the first degree and the decisions of the courts should remain the same.