



## Sex in restroom stalls is private, ACLU says

Civil liberties group goes to bat for Sen. Craig

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ST. PAUL, Minnesota - In a legal effort to help a U.S. senator, the American Civil Liberties Union is arguing that people who have sex in public bathrooms have an expectation of privacy.

Republican Senator Larry Craig is asking the Minnesota Court of Appeals to let him withdraw his guilty plea to disorderly conduct related to a bathroom sex sting at the Minneapolis airport last year.

Craig was arrested by an undercover police officer who said Craig tapped his feet and swiped his hand under a stall divider in a way that signaled he wanted sex. Craig has denied that, saying his actions were misconstrued.

The ACLU filed a brief Tuesday supporting Craig. It cited a Minnesota Supreme Court ruling 38 years ago that found that people who have sex in closed stalls in public restrooms "have a reasonable expectation of privacy."

That means the state cannot prove Craig was inviting the undercover officer to have sex in public, the ACLU wrote.

Even if Craig was inviting the officer to have sex, the ACLU argued, his actions would not be illegal.

"The government cannot prove beyond a reasonable doubt that Senator Craig was inviting the undercover officer to engage in anything other than sexual intimacy that would not have called attention to itself in a closed stall in the public restroom," the ACLU wrote in its brief.

The ACLU also noted that Craig was originally charged with interference with privacy, which it said was an admission by the state that people in a bathroom stall expect privacy.

Craig at one point said he would resign but now says he will finish his term, which ends in January 2009.

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