

Community Advisory on Public Safety Commission Resolution 23-01:
Protection of LGBTQ Rights & Freedom

Community Advisory on Public Safety Commission Resolution 23-01 expresses concern of the Community Advisory on Public Safety Commission over the slate of legislation passed during the 2023 Session of the Indiana General Assembly restricting the rights of transgender youth, their families, their medical providers, and their educators.

WHEREAS, the Indiana General Assembly (IGA) has passed and Indiana Governor Eric Holcomb has signed into law several bills within the 2023 Session that restrict or infringe on the rights of transgender youth; and

WHEREAS, on April 5, 2023, Indiana Governor Eric Holcomb signed into law Senate Bill 480 (S.B. 480), which bans gender-affirming medical care for all minors under the age of eighteen within the State of Indiana; and

WHEREAS, on May 4, 2023, Indiana Governor Eric Holcomb signed into law House Bill 1608 (H.B. 1608), which bans instruction on human sexuality in public schools from kindergarten through the third grade and requires public school educators to notify the parents of a student who requests to go by a different name or pronoun of this change; and

WHEREAS, on May 4, 2023, Governor Holcomb signed into law House Bill 1447 (H.B. 1407), which opens public school educators to liability for disseminating educational materials alleged to be harmful to minors; and

WHEREAS, in response to H.B. 1608 and H.B. 1447, the Community Advisory on Public Safety Commission recommends the City of Bloomington (City) foster a welcoming and safe environment for transgender youth in schools and honor the decisions of public school educators to develop curricula without fear of liability from state-sanctioned punishment of speech; and

WHEREAS, according to the American Civil Liberties Union of Indiana (ACLU Indiana), the effect of these laws is to censor books and educational topics by and about LGBT people and other marginalized groups, which has a chilling effect on the availability of educational materials for students¹; and

WHEREAS, the American Civil Liberties Union of Indiana filed a lawsuit² on June 9, 2023, seeking a declaration that H.B. 1608 is unconstitutional and an injunction against its enforcement because it is, according to ACLU Indiana, unconstitutionally overbroad, to the point where educators will not be able to determine what can and cannot be said to students, and it infringes on constitutional First Amendment rights of educators to express themselves as private citizens outside of the classroom³; and

WHEREAS, according to ACLU Indiana, H.B. 1608 also requires teachers to forcibly “out” students who wish to go by a different name or pronoun by sending a note home to their parents or guardians, which increases the risk of parental rejection and negative emotional well-being when students do not feel ready or safe to come out at home⁴; and

WHEREAS, such forced disclosures will make school become yet another “closet” for transgender and gender diverse youth who may not ever feel safe enough to explore their identities when there is no longer any safe space at school to do so; and

WHEREAS, H.B. 1608’s mandates on pronoun usage and instruction on human sexuality in Hoosier schools remain in effect while the court case with ACLU Indiana is pending because, on July 28, 2023, just as the 2023 school year was about to begin or had already begun for the vast majority of primary schools across the State, the U.S. District Court for the Southern District of Indiana denied the Plaintiff’s motion for a preliminary injunction⁵; and

WHEREAS, it is necessary and appropriate to exercise the authority vested within the City to protect public school educators lawfully engaged in developing meaningful and effective coursework for students within the municipality, and to protect gender diverse students within the municipality from forced disclosures that could negatively impact their well-being; and

WHEREAS, in response to S.B. 480, the Community Advisory on Public Safety Commission recommends the City honor the rights of transgender youth, their parents or guardians, and their medical providers to make well-informed medical decisions without government interference; and

WHEREAS, access to medical transition and hormone blockers has been known to significantly decrease the risk of suicide in populations of transgender youth ages 13-20, including 60% lower odds of moderate or severe depression and 73% lower odds of suicidality over a 12-month follow-up⁶; and

WHEREAS, according to the Human Rights Campaign, as of March of 2023, more than half of transgender youth ages 13-17 in the United States have lost or are at risk of losing access to life-saving gender-affirming medical care⁷; and

WHEREAS, as of late August of this year, at least twenty-one states have passed bills restricting or criminalizing access to gender-affirming healthcare, five of which make it a felony crime to provide best practice medical care for transgender youth⁸; and

WHEREAS, Indiana joined this list on April 5, 2023 by the passage of S.B. 480, which prohibits health care practitioners from providing any types of medical gender-affirming healthcare to minors under the age of eighteen, including cross-sex hormones and puberty blockers, even with parental consent; and

WHEREAS, under S.B. 480, health care practitioners who assist another health care practitioner in providing gender-affirming care to a minor violate the standards of practice for health care professions and can be subject to discipline under their respective health care profession board; and

WHEREAS, S.B. 480 creates a private cause of action for a minor or their parent or guardian against a health care professional who provided or assisted another health care professional in providing the minor with gender-affirming care; and

WHEREAS, S.B. 480 does not provide exemptions for Hoosier transgender youth currently being prescribed gender-affirming medical care, and the bill gives transgender youth until the end of this year to receive care until it is prohibited across the board; and

WHEREAS, under the mandate of S.B. 480, Hoosier transgender youth who have previously been prescribed puberty blockers or cross-sex hormones with parental consent will, by January of 2024, be required to detransition (reverse, or go through the puberty that does not align with their preferred gender identity) or move out of state in order to continue receiving a continuum of gender-affirming medical care; and

WHEREAS, the vast majority of major medical organizations support gender-affirming care in populations of transgender youth, including the American Academy of Pediatrics⁹, Endocrine Society¹⁰ and Pediatric Endocrine Society¹¹, American Medical Association¹², American Psychiatric Association¹³, and American Academy of Child and Adolescent Psychiatry¹⁴; and

WHEREAS, national and international guidance exists on age-appropriate treatments for transgender youth, including suppression of puberty in prepubescent adolescents and cross-sex hormone treatment in youth of at least sixteen years of age¹⁵; and

WHEREAS, because the risk of depression and suicide among transgender youth decreases as access to gender-affirming medical care increases¹⁶, transgender youth depression and suicide rates will increase with state-legislated forced detransition and assigned-sex puberty that must legally occur until the patient can access or re-access gender-affirming care at the age of eighteen; and

WHEREAS, while policy rationales behind state-legislated gender-affirming care bans concern protecting minors from making semi-irreversible decisions that they may later come to regret, gender-affirming care is statistically associated with low levels of regret¹⁷ and blanket gender-affirming care bans will not protect transgender minors from undergoing semi-irreversible changes that they may later regret, notably a forced puberty that does not align with their known experience of gender identity; and

WHEREAS, medical doctors, minor patients, their consenting parents or guardians, and all other health care professionals who provide or assist in providing gender-affirming medical care enjoy a basic right to privacy and a confidential relationship between patient and physician that should protect them from criminal punishment, civil liability, administrative penalty, or any professional sanction related to decisions made within the healthcare provider-patient relationship so long as those decisions occur without coercion, force, or negligence; and

WHEREAS, the American Civil Liberties Union of Indiana filed a class action lawsuit¹⁸ on April 5, 2023, alleging violations of U.S. constitutional rights, including Equal Protection, and federal law, including the Medicaid Act and Affordable Care Act and seeking injunctive relief against enforcement of S.B. 480¹⁹; and

WHEREAS, the U.S. District Court for the Southern District of Indiana granted the Plaintiffs in the case a partial preliminary injunction on June 16, 2023, blocking the effect of S.B. 480 during the pendency of litigation as it applies to minors seeking gender affirming care (but not surgeries), and speech that would “aid or abet” the provision of gender affirming care to a minor²⁰; and

WHEREAS, while the preliminary injunction will remain in effect until the case is fully litigated, the Defendants in the case have filed a Notice of Appeal as of July 11, 2023²¹; and

WHEREAS, while the litigation in this case is pending, it is important for the City to declare itself a safe haven for its LGBTQ+ youth; and

WHEREAS, the Council for Kansas City, Missouri declared, by Resolution No. 230385²², the municipality to be a Safe Haven for Gender-Affirming Healthcare in the wake of proposed but not yet passed executive and legislative initiatives to ban gender-affirming medical care; and

WHEREAS, the Council for Kansas City adopted a Gender-Affirming Healthcare Policy which declared, within the extent of what is required by law within its jurisdiction, that the municipality would make enforcement of any state-sanctioned ban on gender-affirming care the lowest priority, including the enforcement of penalties, other jurisdictions’ laws and requests for information, and collection of any judgment; and

WHEREAS, the City of Bloomington should follow this model of adopting a policy that declares the City a Safe Haven for transgender youth, their parents or guardians, treating healthcare professionals, and educators within the municipality to the extent permissible by state and federal law; and

WHEREAS, the City has a responsibility to protect its residents from violations of their human rights and any criminalization of the free exercise thereof;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY ADVISORY ON PUBLIC SAFETY COMMISSION THAT THE FOLLOWING POLICIES AND ACTIONS BE RECOMMENDED TO THE MAYOR AND COMMON COUNCIL FOR ADOPTION BY THE CITY:

Section 1. That the City of Bloomington formally condemns any action intended to abrogate the fundamental liberties of its people and affirms its commitment to protecting the right of its residents to make private health decisions regarding gender-affirming care.

Section 2. That the City of Bloomington formally condemns any action intended to ban and censor educational materials about marginalized groups in schools within the municipality, as well as any action intended to make schools within the municipality a less safe space for transgender and otherwise gender diverse students to exist as their authentic selves without fear.

Section 3. That the Mayor and Common Council declare the City of Bloomington a Safe Haven for Transgender Youth and adopt a policy or policies consistent with the principles set forth above.

PASSED by the Community Advisory on Public Safety Commission of the City of Bloomington, Monroe County, Indiana, this 1st day of November, 2023.

PASSED 8-0-1

Co-Chairs, Community Advisory on Public Safety Commission

Jason Michálek
Co-Chair

11.02.2023
Date

s/ Patricia Moon
Co-Chair

11.02.2023
Date

Synopsis:

This Community Advisory on Public Safety Commission Resolution asks the City of Bloomington Common Council and the Mayor to declare the City a Safe Haven for Transgender Youth in response to recent state legislation that bans gender-affirming health care for minors, restricts educational materials with LGBTQ+ themes in municipal schools, and requires parental notification of nomenclature and pronoun change requests from students in municipal schools. The Commission asks the City to create a policy or policies consistent with the principles set forth in the resolution.

References

- ¹ Press Release, American Civil Liberties Union Indiana, Book Banning Bill Heads to Indiana Governor's Desk (Apr. 27, 2023), <https://www.aclu-in.org/en/press-releases/book-banning-bill-heads-indiana-governors-desk>.
- ² *Smiley v. Jenner*, No. 1:23-cv-1001 (S.D. Ind. filed June 9, 2023), https://www.aclu-in.org/sites/default/files/field_documents/dkt_1_-_complaint_12.pdf.
- ³ Press Release, American Civil Liberties Union Indiana, ACLU of Indiana Challenges Law Censoring Classroom Discussions (June 9, 2023), <https://www.aclu-in.org/en/press-releases/aclu-indiana-challenges-law-censoring-classroom-discussions>.
- ⁴ Press Release, American Civil Liberties Union Indiana, Indiana Bill Targeting LGBTQ Students Signed by Governor (May 4, 2023), <https://www.aclu-in.org/en/press-releases/indiana-bill-targeting-lgbtq-students-signed-governor>.
- ⁵ John Tufts & Caroline Beck, *ACLU's Request to Delay Pronouns Law Denied as School Year Starts in Indiana*, INDYSTAR (July 29, 2023, 7:01 AM) <https://www.indystar.com/story/news/2023/07/29/judge-denies-injunction-indiana-sex-education-law-aclu-lawsuit/70490561007>, (updated July 31, 2023, 12:09 PM).
- ⁶ Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, JAMA NETWORK OPEN, Feb. 25, 2022, at 1, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423>.
- ⁷ Press Release, Cullen Peele, Human Rights Campaign, New HRC Data Reveals Over Half of Transgender Youth Ages 13-17 Could Soon Face Barriers to Life-Saving, Medically Necessary Gender Affirming Care (Mar. 22, 2023), <https://www.hrc.org/press-releases/new-hrc-data-reveals-over-half-of-transgender-youth-ages-13-17-could-soon-face-barriers-to-life-saving-medically-necessary-gender-affirming-care>.
- ⁸ *Bans on Best Practice Medical Care for Transgender Youth*, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/healthcare/youth_medical_care_bans (last updated August 28, 2023).
- ⁹ News Release, American Academy of Pediatrics, AAP Policy Statement Urges Support and Care of Transgender and Gender-Diverse Children and Adolescents (Sept. 17, 2018), <https://www.aap.org/en/news-room/news-releases/aap/2018/aap-policy-statement-urges-support-and-care-of-transgender-and-gender-diverse-children-and-adolescents/>.
- ¹⁰ Position Statement, Endocrine Society, Transgender Health (Dec. 16, 2020), <https://www.endocrine.org/advocacy/position-statements/transgender-health>.
- ¹¹ Press Release, Endocrine Society, Discriminatory Policies Threaten Care for Transgender, Gender-Diverse Individuals (Dec. 16, 2020), <https://www.endocrine.org/news-and-advocacy/news-room/2020/discriminatory-policies-threaten-care-for-transgender-gender-diverse-individuals>.
- ¹² Advocacy Update, American Medical Association, AMA Fights to Protect Health Care for Transgender Patients (Mar. 26, 2021), <https://www.ama-assn.org/health-care-advocacy/advocacy-update/march-26-2021-state-advocacy-update>.
- ¹³ News Release, American Psychiatric Association, Frontline Physicians Oppose Legislation That Interferes in or Criminalizes Patient Care (Apr. 2, 2021), <https://www.psychiatry.org/newsroom/news-releases/frontline-physicians-oppose-legislation-that-interferes-in-or-criminalizes-patient-care>.
- ¹⁴ Policy Statement, American Academy of Child & Adolescent Psychiatry, AACAP Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth (Nov. 8, 2019), https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx.
- ¹⁵ E. Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, 23 INT'L J. TRANSGENDER HEALTH S1 (2022), <https://www.tandfonline.com/doi/full/10.1080/26895269.2022.2100644>; Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 J. CLINICAL ENDOCRINOLOGY & METABOLISM 3869, 3870-72 (2017), <https://academic.oup.com/jcem/article/102/11/3869/4157558?login=false>; see also Clinical Practice Guideline, *Gender Dysphoria/Gender Incongruence Guideline Resources*, ENDOCRINE SOCIETY (Sept. 1, 2017), <https://www.endocrine.org/clinical-practice-guidelines/gender-dysphoria-gender-incongruence#2>.
- ¹⁶ Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy With Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, 70 J. ADOLESCENT HEALTH 643, 647-48 (2021), <https://doi.org/10.1016/j.jadohealth.2021.10.036>.
- ¹⁷ Coleman et al., *supra* note 15, at S36, S45-47.

¹⁸ *K.C. v. Individual Members of Med. Licensing Bd. of Ind.*, No. 1:23-CV-595 (S.D. Ind. filed Apr. 5, 2023), https://www.aclu-in.org/sites/default/files/field_documents/1_-_complaint.pdf.

¹⁹ Press Release, American Civil Liberties Union Indiana, ACLU Sues Indiana Over Ban on Health Care for Transgender Youth (Apr. 5, 2023), <https://www.aclu-in.org/en/press-releases/aclu-sues-indiana-over-ban-health-care-transgender-youth>.

²⁰ Order Granting In Part Plaintiffs' Motion For A Preliminary Injunction at 2, *K.C. v. Individual Members of Med. Licensing Bd. of Ind.*, No. 1:23-CV-595 (S.D. Ind. filed Apr. 5, 2023), <https://wp.api.aclu.org/wp-content/uploads/2023/06/IN-PI-decision.pdf>.

²¹ *K.C. v. Individual Members of Med. Licensing Bd. of Ind.*, No. 1:23-CV-595 (S.D. Ind. filed Apr. 5, 2023), *appeal docketed*, No. 23-2366 (7th Cir. filed July 12, 2023), https://content.govdelivery.com/attachments/INAG/2023/07/12/file_attachments/2552516/77%20-%20Notice%20of%20Appeal.pdf.

²² Kansas City, Mo., Resolution 230385, A Resolution Declaring the City of Kansas City a Safe Haven for Gender-Affirming Healthcare Through the Adoption of a Gender-Affirming Healthcare Policy (May 11, 2023), <https://clerk.kcmo.gov/LegislationDetail.aspx?ID=6195676&GUID=A44A421C-CC91-4816-B2CB-86F7BDA4BD67&FullText=1>.