FAMILY COUNCIL

POLICY BRIEF

Proposed City Ordinance for Fayetteville, AR

Sexual-Orientation and Transgender Nondiscrimination Ordinance

Summary: "Proposed Chapter 119" is a proposed ordinance for the City of Fayetteville, Arkansas, to prevent discrimination on the basis of sexual orientation and gender identity (the gender a person claims, regardless of whether or not that gender matches their biology). The proposal, however, carries a number of unintended consequences that could negatively impact Fayetteville's business community.

Ways Proposed Chapter 119 Inadvertently Affects Local Business

- **Businesses can face criminal prosecution.** The ordinance opens businesses to criminal prosecution if they are accused of firing, failing to promote, or otherwise discriminating against an employee due to sexual orientation or gender identity. Even if the alleged discrimination proves untrue in court, businesses who employ five or more people could still be forced to spend thousands of dollars in legal fees proving their innocence. This could force small businesses to close, and it will have a chilling effect on Fayetteville's business community as a whole.

- **Businesses may be forced to let men use the women's restrooms.** The ordinance prevents a business from treating employees or customers differently due to gender identity, but fails to make exceptions for restrooms on the business's premises. This inadvertently opens businesses to criminal prosecution for failing to let a biological male who claims to be female use the women's restrooms, locker rooms, or changing rooms. This is a no-win situation for businesses: Comply with the ordinance, and make employees or customers uncomfortable by letting men use the women's restrooms, or ignore the ordinance, and face expensive battles in court.

- **Businesses may volunteer not to grow.** The ordinance primarily affects businesses with five or more employees. Small business owners that employ fewer than five people may decide it is more profitable to maintain a small staff than to expand their business, which would bring them fully under this ordinance. This mean Proposed Chapter 119 may discourage business growth.

- **Expands local government.** The ordinance creates a Civil Rights Administrator tasked with receiving, investigating, and mediating allegations of discrimination; the administrator also has the power to turn businesses over to the City Prosecutor's Office for prosecution. This constitutes an expansion of local government.

- **May result in new taxes.** The expansion of local government caused by this ordinance will almost undoubtedly lead to an increase in public spending at the city level. This means the City of Fayetteville will be forced either to cut existing programs or levy new taxes to make up for the additional revenue the ordinance will require.

- **May drive away current and future businesses.** Rather than deal with the prospect of new taxes or expensive court battles with disgruntled employees, Fayetteville businesses may decide it is easier to relocate outside Fayetteville, and new businesses moving to Northwest Arkansas may choose to locate outside Fayetteville for the very same reasons.

Please Call the Fayetteville City Council to Voice Your Concerns About Proposed Chapter 119.

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