


Ordinance 6-23

Sam Whiting <sam@mafamilly.org>

Thu 7/6/2023 10:32 AM

To: mayor@easthamptonma.gov <mayor@easthamptonma.gov>

 1 attachments (185 KB)

7-5-2023 Letter to Easthampton City Council.pdf;

Dear Mayor LaChapelle,

My name is Sam Whiting and I am an attorney with Massachusetts Family Institute. I write to ask that you veto all or part of Ordinance 6-23, "Safe and fair access to legally protected reproductive and gender-affirming health care services."

As you know, the City Council passed this ordinance last night. As I believe you expressed at the public hearing, state law already provides all of the protections laid out in this ordinance. The attorney general has already published information regarding crisis pregnancy centers that is available to anyone online. And any member of the public can file an unfair trade practices complaint online via the attorney general's website. This ordinance is therefore entirely unnecessary.





Moreover, the Council may have exceeded its authority in passing this ordinance. When the legislature has "comprehensively regulated" in an area, municipalities are preempted from regulating on the same subject. See *Connors v. City of Boston*, 430 Mass. 31 (1999). Considering the law passed last summer by the legislature on the same subject, there is a strong argument that Easthampton is preempted from passing its own ordinance. Also, considering Massachusetts statutes concerning unfair trade practices (M.G.L. c. 93A), the city may not have authority to regulate pregnancy resource centers. While other cities in Massachusetts have passed similar ordinances, those cities do not have a pregnancy resource center in their city limits. But here, if the City indeed exceeded its authority in enacting this measure, it could face a lawsuit.

Finally, depending on the content of any "consumer advisories" that the City publishes and the extent of the City's involvement in helping people file complaints against pregnancy resource centers, the ordinance may subject the City to liability for the violation of the centers' constitutional rights.

I am also attaching a letter that I sent via email to the City Council yesterday afternoon, which I also cc'd you on. We respectfully request that you veto this ordinance, at least to the extent that it regulates pregnancy resource centers in sections 6-23.4 and 6-23.5.

Thank you,

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