



TO: Health and Human Services Committee
FROM: Marion Miner, Associate Director of Pro-Life and Family Policy
Nebraska Catholic Conference
DATE: February 16, 2022
RE: LB1136 (Imposition of SOGI Ideology on Senior Care Residents) (Oppose)

The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public.

The Catholic faith recognizes the supreme dignity of every person as made in the image and likeness of God. Every person, including those who experience same sex attraction or feel a sense of incongruity between their bodily sex and the gender with which they identify, should be treated with equal respect and dignity.

LB1136, however, goes well beyond treating others with respect and strays deep into the territory of what Pope Francis, who has spoken with feeling on this issue on several occasions, calls “ideological colonization.”¹ Francis reminds us that “[i]t is one thing to be understanding of human weakness and the complexities of life, and another to accept ideologies that attempt to sunder what are inseparable aspects of reality”²—namely sex, which is a biological and bodily reality, and gender, which is its social expression. LB1136 takes this ideology of attempted separation and attempts to impose it on senior care facilities and their residents.

Under LB1136, senior care facilities, which would have to worry about discipline on their licenses if they fail to comply at any moment with all the strictures outlined by the bill, would somehow need to ensure their staff understand many things. Among them is every person’s “gender identity” as defined by LB1136: “The gender-related identity, appearance, expression, or behavior of a person ... which may be demonstrated by “consistent and uniform assertion of the person’s gender identity” or “any other evidence that the gender identity is sincerely held as part of the person’s core identity.” It is a very old and very well-known rule that any good definition of a word never *uses that word* (or references itself) in its own definition. LB1136’s definition of “gender identity” uses the term in its own definition multiple times, making it (or any violation of it) virtually impossible to recognize. It is unfair to ask any facility, on pain of punishment, to avoid conduct which cannot even be defined.

Furthermore, even if the terms could be reliably defined, LB1136’s multiple categories of “discrimination” are unreasonable.

¹ Francis, *Address of His Holiness Pope Francis*, Cathedral of Krakow, July 27, 2016.

² Francis, *Apostolic Exhortation Amoris Laetitia*, March 19, 2016, no. 56.

LB1136 would punish, as impermissible discrimination, “assigning ... a room to a transgender resident other than in accordance with the transgender resident’s gender identity, unless at the transgender resident’s request.” Ironically, there is no policy in LB1136 protecting the right of a *non*-transgender resident to room with only members of the same sex. A biological male would have a statutory right under LB1136 to room with women whether they like it or not. Resident women would have no right to protect their own privacy by living separately from men.

LB1136 would also require senior care facilities to find out each resident’s “gender identity and preferred name and pronouns,” and would punish facilities for failing to use those names or pronouns (or new preferred names or pronouns, should the resident’s preference change). This requirement is not only unreasonable—an identical California law was found to violate the First Amendment last year.³

LB1136 would force residents to tolerate people of the opposite sex using the same restrooms as themselves.

LB1136 would categorize “denying a request by residents to share a room in a facility” as “discrimination.” (This would apparently apply to *any* request, related to “gender identity” or for any other reason, and makes no exceptions for circumstances virtually any person would find reasonable or necessary.)

Finally, there are the bill’s requirements on provision of medical care—that a facility may not deny care that is “appropriate to a resident’s organs and bodily needs,” and may not provide medical care “in a manner that, to a similarly situated reasonable individual, would unduly demean such individual’s dignity or cause unavoidable discomfort.” These requirements obviously raise a great number of questions as well.

LB1136 is an imposition of ideology not only on senior care facilities, but also on the elderly who live in these residences. Taken together, the bill’s opaque definitions and radical policy are likely to make compliance impossible for senior care facilities and life miserable for their residents and staff.

The Conference respectfully urges that you indefinitely postpone LB1136. Thank you for your time and consideration.

³ *Taking Offense v. State of California*, No. 34-2017-80002749-CU-WM-GDS (Cal.App. 5th).