



Civil rights law, “sexual orientation,” and “gender identity”

Existing civil rights law in Alaska (AS 18.80.210) prohibits discrimination based on immutable characteristics (such as race, color, sex); and also on characteristics that may be mutable over time but which nonetheless can be clearly defined (such as pregnancy, marital status, physical or mental disability, religion). But legislation such as SB 131 and HB 139, introduced in the 28th Alaska Legislature, would add classes based on “sexual orientation” and “gender identity or expression.” The latter term is defined by SB 131/HB 139 as follows: “having *or being perceived as having a gender identity, self-image, appearance, behavior, or expression*, regardless of whether that gender identity, self-image, appearance, behavior, or expression is *different from that traditionally associated with the sex assigned to that person at birth.*” (emphasis added)

Terms such as “self-image” and “expression” involve nebulous concepts that are not clearly defined as a matter of law, and which may be constantly evolving. Laws that protect our rights should be clear and unambiguous, not moving targets that can mean different things to different people.

A proposal almost identical to SB 131/HB 139 was placed on the ballot of the April 3, 2012 local election in the Municipality of Anchorage. Proposition 5 was defeated when 57 percent of voters rejected the measure. This occurred despite the fact that supporters of Prop. 5 outspent opponents by a ratio of 4 to 1.

Alaska Family Council opposes legislation such as SB 131 and HB 139 because it elevates the ideological agenda of a few over the freedoms of all. When other states and localities have adopted similar laws, the predictable result has been discrimination against business owners, landlords, and other individuals who hold traditional views about sexual behavior and gender, because they are prohibited from operating their businesses in a way that is consistent with their beliefs.

For example, a wedding photographer in New Mexico was found guilty by that state’s Supreme Court of violating New Mexico’s ban on “sexual orientation” discrimination after she politely declined to take pictures at a homosexual “commitment ceremony” because it conflicted with her Christian beliefs. The homosexual couple had no problem finding another photographer willing to photograph their event, but nevertheless filed a complaint against the Christian photographer in order to punish her for operating her business in accord with the dictates of her conscience.