

# 25 REASONS TO OPPOSE 2020-244

## REPRESENTATIVE DEMOCRACY

### ☆ 1. This is no time for the most controversial bill in Jacksonville's history.

Both supporters and opponents agree that this is a bill with massive implications for our city. In prior years, the people of Jacksonville have made clear that they want a voice on this issue. When similar bills were introduced in 2012, 2016, and 2017, thousands upon thousands from across our city contacted their representatives on the City Council to state their support or opposition for the legislation. Hundreds if not thousands of people actually came to City Hall in prior years to speak out on the bills. Now, as the people of Jacksonville are dealing with a “global pandemic” this controversial bill is being put forward again.

Families are focused on how their mortgage will be paid next month, where they will work in a week, and how they will feed their children tonight. Is it possible that this has been introduced at this unparalleled time in history because certain councilmembers want to force it through without real input from their citizens? If they do care about input on this important bill, why would they not wait at least until city council meetings are held at City Hall? Why not wait until the citizens of Jacksonville can speak face-to-face with those they elected? The majority of the current councilmembers were not in office when the city voiced its opinion in 2012, 2016, and 2017. If you care how the citizens view this law, put it to a referendum.... Or, at least wait until after this international virus crisis comes to an end.

### ☆ 2. Majority or minority: you can't have it both ways.

In 2017, many touted that the city supported revising the HRO. Claims were made that 54-80% of the city's businesses and about 60% of the general populace supported it. However, supporters also claim that they didn't want to put it on the ballot as a referendum to validate these claims. They say that “majority in support” is one reason you should pass this bill, but in the next breath they say that they don't want the majority to decide this issue on a referendum. So, should we or shouldn't we listen to the “majority support” argument?

If we should, why not a referendum? If not, why do supporters constantly push “majority support” as a major reason to pass it. If the majority supports it, it should easily pass on a referendum. If, on the other hand, the majority doesn't support it, then the “majority supports it” argument is invalid and is an illusion that has been created by a small group of individuals pushing for the swift and secretive passage of this bill. Is this government by and *for* the people?

I contend that as in several cities across the nation—where the voters defeated similar legislation in referendums—the majority of voters in Jacksonville do not want these revisions to our city's Human Rights Ordinance: this is why supporters don't want to put the bill on referendum, bottom line. If I am wrong, prove it at the ballot box.

### ☆ 3. Historical list of events surrounding this bill reminds me of JEA

1. In 2017, the HRO revisions bill was said to be shorter and simpler than previous versions of the bill. In fact, it was as long or longer than previously proposed bills. It was just “cliff noted” to make it falsely *appear* shorter and simpler. Transparent and honest?

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2. In 2017, the HRO revisions bill was rushed through with only the minimum 1 or 2 public hearings. During that same time, less important bills had as many as ten public hearings. Equality?
3. Every committee that heard the bill in 2017 prohibited the public from speaking. Desire to hear from the public?
4. In 2017, a couple Councilmembers did not meet with constituents who wanted to give input. Transparent representation?
5. Recently, a Florida Court of Appeals ruled that the HRO revisions bill in 2017 was not legally passed. Thus, the 2017 law has never truly been law in Jacksonville. The reintroduction of this bill shows that some on the Council acknowledge this reality.
6. Now, in 2020 while our city is dealing with a global pandemic, one of the most controversial laws will again be rushed through without even an opportunity for citizens to speak face-to-face with their representatives? (Bill 2020-244 was published online during Jacksonville's state of emergency) Transparency?
7. Public comment at the May 12<sup>th</sup> City Council meeting was canceled even though it was not just an "informational meeting". Highly abnormal?

## BUSINESS

★ 4. **North Carolina is rated as 1<sup>st</sup> best state for business by Forbes magazine.**

Forbes Best States for Business list measures which states have the best business climates and are poised to succeed going forward. Forbes' Best States for Business list factors in business costs, labor supply, regulatory environment, economic climate, growth prospects and quality of life.

Despite the negative media coverage from the controversial HB2 bill, North Carolina ranked second best state for business overall back in 2016. Now, without any state sexual orientation/gender identity law, it is listed by Forbes as the best state for business. Why? Because businesses care about low taxes, good schools, good workers, good weather, low regulatory burden, and low business costs. No HRO revisions needed.

(information taken from Forbes Magazine website accessed in July of 2017 and May of 2020)

★ 5. **This bill is not the reason businesses come to Jacksonville.**

If this bill had passed in 2012, LGBT lobbyists would have claimed that it was responsible for the incredible business growth that was seen in our city in recent years. However, since 2012-296 did not pass, we have seen the real reason businesses are coming here: good people, good weather, low regulations, highly skilled workforce, low taxes, and low business costs. (See the Jax USA {a division of the Chamber} website for the many reasons businesses come to Jacksonville FL.

Some examples are as follows: Jacksonville #11 in Increasing Millennial Population in the Small Tech Talent Market by CBRE (7/2016), Northeast Florida #4 Largest Increase in Tech Talent Growth in North America, by CBRE (7/2016), **Top 40 Best Places for Business and Careers by Forbes (10/2016)**, #2 Hot Spot Where Americans are Moving Right Now by Realtor.com (5/2016), Jacksonville Added the 12th Most People of Any City in America by U.S. Census Bureau (5/2016), #2 Best Cities for Tech (Outside CA & NY) by Datafox (5/2016), **Jacksonville ranked 2nd in Nation for Favorable Small Business Sentiment by Thumbtack.com (11/2015)**, **#2 City With the Most Vibrant Employment Scene by Forbes (3/2015)**, JAX is a Top 15 Metro Area Attracting Millennials by NewGeography, Jax is #7 Happiest Area in the Country by Time (7/2014), **#1 in Best Cities to Start a Business by WalletHub (3/2014)**, Florida is #5 in "Business-Friendly Tax Climate" by Tax Foundation study (10/2013), One of "Fastest Growing Regions for High-Tech Jobs" by Forbes (3/2013), **#2 City For Tech Job Growth by Forbes Magazine.**

☆ 6. **Where is the “discrimination” that this bill would solve?**

In previous debates on similar bills, there have been hours upon hours of public input from activists and laypeople alike. Even with all these discussions in a city of nearly a million people, we have not heard the names of even 10 businesses in Jacksonville that did any of the following:

- 1) refused to hire someone who is L, G, B, or T for the sole reason of his or her sexual orientation or gender identity,
- 2) refused to sell/rent a house or apartment to someone solely because of his or her sexual orientation or gender identity, or
- 3) denied a public accommodation to someone because his or her sexual orientation or gender identity.

Also, we have not been given the name of a single business that *would come* to Jacksonville if this bill were to pass. If we have not seen sufficient evidence of a problem that this bill purports to solve, why do we need this bill? Sufficiently demonstrating a need is the first step in making a new law. Then, after the need is shown, the benefit should be compared to the negative side effects of such a law. Without adequate demonstration of need, this bill seems to be attempting to make a symbolic statement, rather than trying to solve an actual problem. In fact, as has been seen in many other cities around America, this law will actually create problems. To take such a drastic step as this law, there needs to be a real reason for it. Let us not simply follow other cities because passing this kind of law is trendy. Let us do what is right for our city and our citizens.

☆ 7. **Jacksonville already has numerous sporting events.**

Our city hosts the famed Florida/Georgia game and is home to a rugby team, a soccer team, a football team, a baseball team, and a hockey team. Why is it that the NCAA didn't want to go to North Carolina several years ago? The state law only applied to public restrooms (private businesses were free to choose what they did in their bathrooms). Do sporting groups really choose where they want to go based on whether a city or state allows football players, basketball players, etc. to use the same restroom and locker room as the cheerleaders? I hope not! (By the way, most spectator sports in the U.S. separate teams based on biological sex. Why? Discrimination and hate? No. Genuine, biologically-inherent differences between men and women.)

## SUBJECTIVITY

### ☆ 8. Men would get legal protection to enter women's private facilities.

This bill says that anyone who provides public accommodations (ex. bathrooms, gym changing rooms, or shower rooms) would not be able to discriminate against (i.e. call out or try to stop) anyone from going into the private facility of his or her choice. Which restroom a person chooses to use would be considered a part of his or her gender identity and expression. Thus, *any* man would be legally able to enter a woman's private facility to see women in various stages of undress. Whether or not he "sincerely" identifies as a woman is irrelevant since "sincere" is subjective to the individual, and one cannot tell sincerity by looking at an individual.

So, for example, under this proposed law, it would be *legal* for a teenage boy to go into the women's changing room where a girls' swim club is changing as long as he says that he sincerely identifies as a woman for five minutes for the purpose of changing his clothes there. Since changing clothes would not be considered an improper or criminal activity, how could he be legally prevented from using that locker room? Gender identity is by definition a subjective term. A person's word alone could be counted as sufficient "evidence that [his or her]... gender identity is sincerely held." You may say five minutes of identity is not covered by this bill. Says who? Are you saying that boys aren't "protected" by this law five minutes after they say they "identify" as girls?

Why are many cars in our city broken into? Because the doors are left unlocked. This bill would (figuratively speaking) unlock the doors of our shower rooms, locker rooms, and bathrooms in our city. This bill would make it legal for *any* man (with criminal intentions or not) to have the ability to go into any women's private facility. Businesses would be afraid to call out *any* man for fear of being sued, fined, or labeled "discriminatory".

### ☆ 9. LGBT advocates say that gender identity can constantly change.

According to the Jacksonville Coalition for Equality website, gender identity and expression can be fluid ("Gender Fluid: people whose gender expression varies at different times"). So again, who will define what period of time is long enough to be able to have legal protection to use the opposite-sex bathroom, locker room, dorm room, spa facility, or shower room? A year? A month? A day? Five minutes? Who says?

The law doesn't define this. If gender is fluid, then gender identity could change by the moment. It cannot be scientifically determined; thus, it will be up to the momentary feelings of individuals to decide what gender identity they want to be.

### ☆ 10. Biological women in men's swimsuits?

Under this law, could a biological woman be legally protected to use a swimming pool even if she outwardly expresses as a man by wearing a male swim suit? You may say that is extreme. But, think about it. Under this law, a worker at a city pool, hotel pool, or other private pool would be "discriminating" against that person based on her gender expression if they asked that person to leave. (How she expresses "gender identity" would be to wear a topless swimsuit.)

If some supporters say that this scenario would fall under the "improper" use of gender identity category; that is only their opinion (page 9 line 25). Or, if supporters were to say that the above scenario would be illegal, they're only acknowledging that the woman would be a woman, regardless of how she identifies (feels). In 2017, I asked a spokesperson from the Jax. Coalition for Equality about this scenario, and he said that the example theoretically would be allowed by this bill. Again, is this bill objective?

☆ 11. **Feelings don't remake reality.**

An individual from an LGBT organization recently said “I had a 14-year-old trans-female who looked female, acted female, identified as female, used a female's name, was a hundred-percent female” So is the recipe for changing reality: looking, acting, identifying, and naming yourself something. Will that remake reality? If, for example, I were to look like, act like, identify as, and call myself the name of a councilman, should I then be able to have legal protection to use the Council's private greenroom restroom? Of course not; my feeling and acting (identity and expression) don't remake reality. Since this is not the case for this example, it should be obvious that it does not apply to sex either. (Biologically speaking, there are fewer differences between me and a councilman than there are between men and women.)

☆ 12. **This is NOT a fully inclusive HRO!**

This bill would not make our HRO fully inclusive as some supporters claim. If gender identity should be made a protected class why not make an even more fully inclusive HRO by adding race identity/expression, national origin identity/ expression, color identity/expression, disability identity/expression, and age identity/ expression to these HRO protections.

Thus, if a fifteen-year-old identified as a thirty-five-year-old, he would be able to vote, drive, drink alcohol, get a gun, and drop out of school. Then too, a Caucasian could identify as an African American in order to get a scholarship for college. Would you agree with this? Should the scholarship board consider his race identity when considering who to give the scholarship?

Many people probably think I am making a mockery of this bill, and so I am. But, think about it, why just add identity/expression protections for just the one category of gender? Scientifically speaking, a fifteen-year-old is more biologically like a thirty-five-year-old than a man is biologically like a woman. If an individual's feelings about his or her gender is going to get special legal protections, why not an individual's feelings about his or her age, race, color, disability, and national origin? These other “protections” would be ridiculous to add to our HRO. In the same way, it is just as ridiculous to make gender identity and expression a specially protected class in our Human Rights Ordinance. Here too, feelings don't determine reality.

☆ 13. **Gender identity = gender behavior**

In 2016-2 (previously introduced version of 2020-244), the definition of gender identity or expression included behavior; however, in this year's bill they removed behavior from the definition of gender identity and put expression into its place. “Gender identity,” the current bill says, “shall mean the gender-related identity, appearance, or expression of a person.” Nevertheless, since gender expression is not defined in the bill, it is logical to assume that it has the same definition as the bill introduced in 2016: thus, it would include gender-related behavior. More evidence of this is found on the Jacksonville Coalition for Equality's own website. On it they said,

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### **“Jacksonville Coalition for Equality Terminology: The Importance of Language**

***Gender Expression*** – external presentation, including pronouns, clothing, *behavior*, voice.”

(emphasis added) Since this is one of the main organizations pushing for this bill, it is logical they know what they are fighting for. This will probably be made part of the definition of gender expression if this bill makes it to the General Counsel. Thus, behavior is included in the definition of gender expression. This brings up the same question as was asked in 2016. What gender-related behaviors will be legally protected by this bill?

☆ 14. **Who defines *improper*?**

The bill states that (pg. 4 lines 16-17) “gender identity shall not be asserted for any improper... purpose.” The term *improper* is a subjective word. For many people, a man identifying as a woman is improper as is the very act of a man entering a women’s restroom. What standard should a business owner use to say what are improper purposes for using gender identity, since there is not an objective definition of the word *improper* in the bill itself? Where is that standard in the bill? Will this be potentially something left up to the General Council, courts, or Human Rights Commission to decide/define? Again, this just shows the subjective nature of this bill.

☆ 15. **General Counsel has freedom to define this law.**

In Section 8 of the bill, the General Counsel is given the final responsibility to “take all necessary action... to execute the finalization and codification of the legislation,” (page 17 section 12). This leaves not only the bill incomplete as we see it today, but it also places the definition of the following words into the hands of an unelected group of city lawyers: perceived orientation (pg. 4 line 25), gender-related identity, appearance, expression (pg. 4 lines 11-12), consistent, uniform assertion (pg. 4 line 13), evidence (pg. 4 line 15), improper (pg. 4 line 17), affiliated (page 14 line 15), and sex stereotypes (page 15 line 4) among others. While we greatly respect the General Counsel, we do not believe that they should be given the authority to finish drafting and writing a bill with such major implications for our community. We should have the right to see the final bill and clearly understand what it means before it is voted on by the City Council.

☆16. **Research says that being “born that way” is not scientifically supported.**

“The understanding of sexual orientation as an innate, biologically fixed property of human beings — the idea that people are “born that way” — is not supported by scientific evidence....The hypothesis that gender identity is an innate, fixed property of human beings that is independent of biological sex — that a person might be “a man trapped in a woman’s body” or “a woman trapped in a man’s body” — is not supported by scientific evidence.”

The above is from *Sexuality and Gender: Findings from the Biological, Psychological, and Social Sciences* that “offers a careful summary and an up-to-date explanation of many of the most rigorous findings produced by the biological, psychological, and social sciences related to sexual orientation and gender identity.” Quotes from the John Hopkins University paper *The New Atlantis* Executive Summary (fall 2016). After this paper was published, The Human Rights Campaign (a LGBT-rights lobbying group) issued a threat to John Hopkins University. HRC has asked Johns Hopkins to issue a statement distancing itself from the report. In fact, HRC directly threatened to go after Johns Hopkins and cited the group's Healthcare Quality Index as one way to force a condemnation of the study. (adapted from the story on onenewsnetwork.com Oct. 27, 2016) **Why would this LGBT group try to silence science?**

## **SAFETY**

(see also point 8)

☆ 17. **Men would get legal protection to stay in women's domestic violence shelters.**

Domestic violence shelters would be legally forced to house a man (if he says he identifies as a woman) in a women's domestic violence shelter (under the public accommodations section). He would have legal protection to use women's facilities and even stay in the same room with troubled, abused, and hurting women. This would be forced even if the man didn't change his outward expression. He would have this protection even if he had not had "sex-reassignment" surgery, had not shaved his beard, etc. All he would have to say is that his sincere inward gender identity was a woman. Even if you think this example is farfetched, THE REALITY IS THAT THIS BILL ALLOWS IT. This principle would also apply to group foster homes for girls.

☆ 18. **Section 8: businesses can't enforce male only/female only private facilities.**

The text of the bill says that a business can "provide" single-sex facilities. However, in this bill, businesses are not allowed to *enforce* sex-specific private facilities. Thus, this exemption is not even meaningful, since individuals can still go into either bathroom they choose. This single-sex, facilities "exemption" does virtually nothing since businesses can't *enforce* men only or women only private facilities. (section 8-a)

**18 b)** Also, this section (section 8-b "dress code shall not be based upon sex stereotypes"), among other things, would prevent a business owner from telling a man that he must have short hair if women are allowed to have long hair. And, if female employees are allowed to wear skirts/dresses, men could not be prevented from also wearing them. Plus, "sex stereotypes" is never defined; again, showing the subjective nature of the bill.

☆ 19. **Any gender identity evidence counts.**

This bill mentions that a person can demonstrate their gender identity "by any... evidence that a person's gender identity is sincerely held." (page 4 lines 14-15) What is and is not sufficient evidence to show "that a person's gender identity is sincerely held?" Why is that not defined in the bill? It is probably because it is so subjective that it is impossible to define. Also, is the question of whether or not a person's gender identity is sincerely held subject to the individual him or herself to decide, or is it up to law enforcement, business owners, or others to decide? Since it is not defined, it would seem that an individual's word alone would be sufficient evidence to give a man entrance into women's bathrooms, locker rooms, or shower rooms. If you disagree, on what basis?

☆ 20. **College dorms would be required to allow a man in women's dorm rooms.**

College dormitories will be forced to allow a man (who identifies as a woman) into the same dorm room with a woman. Since college dorm rooms are public accommodations, they would be considered discriminating against that individual if they forced him to go to a special transgender dorm or a male dorm room. This may cause some college-aged women to reconsider coming to a college in Jacksonville if they may be forced to sleep in the same room with a man.

## LIBERTY

### ☆ 21. **Business owners may have to choose between business and religious beliefs**

A professor in support of this bill spoke on this ordinance on January 10, 2017. She said that a religious business owner “may want to make a choice between your religious beliefs and operating your business?” {Jan. 10/2017 meeting @ the 2hrs. 40min. 45 sec. time mark on the city council meeting website video archive.}

If this is what a *supporter* said, and since Elaine Huguenot (closed her photography company), Barronelle Stutzman (florist grandmother sued and has twice lost at the Washington State Supreme Court. If she loses her appeal, she would be forced to pay hundreds of thousands of dollars for legal fees which would likely cause her to lose her business), Jack Phillips (cake baker was told by judge that Phillips had violated antidiscrimination law and would face fines and prison in the future; he is being sued a second time for a about \$100,000 all because of not wanting to be forced to create a message he disagrees with), Cynthia Gifford (told to pay \$11,500 for not wanting to use her property for what violates her sincerely held religious convictions), and Jim O'Reilly (owner of Wildflower Inn forced to pay \$30,000 for a similar conviction) all show that what the supporter said really happens, how can we deny the obvious? With all of the potential litigation that may follow this bill, is it a wonder that The Jacksonville Bar Association endorsed the 2017 version of the bill?

### ☆ 22. **Businesses may never get started.**

One reason I (author of paper) have hesitated to start a business out of my woodworking hobby is because of this bill. If under this law I set up a booth at a festival or arts-and-craft show and someone asked me to make a sign that said “Congratulations Mary and Sue on Your Marriage” I would not be able to do so, because I would be giving *my endorsement* to something that is not the God’s design for marriage [based on my sincerely held religious belief in the God of the Bible]. But, because I would be a public accommodation under bill 2020-244, I would be liable for a fine and lawsuit for simply trying to live out my faith in my own business (that only has one worker). I would be forced to choose between following this law or following God.

Many people don’t realize that Christians are not just Christians in a religious building. I am a Christian when I work, when I speak at City Hall, and when I cast my vote at the ballot box. My religious beliefs don’t stay in the walls of the church building. (I have also heard of a local photographer who also hesitates to start a photography business because of this law.) So, will this bill harm businesses? Absolutely: some may never even get started.

### ☆ 23. **Section 7 doesn’t protect individual’s religious freedom.**

Section 7 of this bill doesn’t protect individual religious freedom; it only protects “Religious Institutions.” This bill does not protect (exempt) individuals to live out their faith outside of a religious organization (building). As mentioned in earlier, many people who are simply trying to honor God in their businesses have been punished by similar laws. This exemption wouldn’t protect them. The substitute bill offered by Bill Gulliford in 2017 would have added better religious protection to this bill; however, (as sponsors of the bill showed when it was offered) religious freedom being added to the bill would kill the intentions of the bill.

☆ 24. **Section 7: all businesses would still have to provide public accommodations.**

First, the fifteen-employee exemption (section 7 page 14) is not a new addition compared to similar statutes (although in years past some have made it out to be). The 15-employee exemption only applies to one of the three sections of the bill: employment. Businesses, regardless of size, would still be required to abide by the housing and public accommodation sections. As mentioned in point 9 there are many business owners who under public accommodation sections have been fined or sued because they wanted to honor God in their own business.

☆ 25. **This bill will not be the end.**

In the 2017 version of the bill, the actions by the Duval County School Board, by Mayor Lenny Curry, and of Sheriff Mike Williams were all used as reasons for passing the bill. If it passes, this bill will also be used as a reason to pass even more restrictive legislation in the future. If “compromise” language is added to this bill, it will, no doubt, be amended in the next few years. In fact, the ACLU already stated that the 2017 version of the proposed legislation “falls short” and had a religious exemption that was too “broad” (ACLU Florida Release Feb. 14, 2017).

I'm sure that the legislative body in New York ten years ago never thought that an individual one day could be fined \$250,000 for not using the preferred pronoun of an employee or tenant (including newly concocted pronouns such as: ze or hir). Nevertheless, this is now law. According to the Washington Post (May 17, 2016) “You can be fined for not calling people ‘ze’ or ‘hir,’ if that’s the pronoun they demand that you use.” You may be fined “up to \$125,000 for violations.” And, an example of a violation is? “Intentional... refusal to use an individual’s preferred ... pronoun.’ ” Pronouns that include ze and hir (not a typo).

☆ 26. Because of the unintended consequences created by this bill, we cannot name all problems and dangers that will be created by this bill in only 25 points. For all these reasons and more, **we urge you to oppose the unnecessary and harmful 2020-244 bill.**

**If you do not agree...please re-read what you may have just overlooked. Jacksonville's future is worth it.**