

Resolution Number _____

A Resolution of the Missoula City Council regarding the 2021 Montana State Legislature’s proposal, debate and passage of HB 112 and proposal and debate of HB 113 and HB 427; finding those actions to be ill-informed and damaging to Montana youth, their families and their community and declaring that the Missoula City Council supports transgender and all LGBTQ+ youth living within our community.

Whereas, in January of 2021 HB 112 proposed to prevent interscholastic athletes from participating in athletics consistent with their gender identity, but instead would require interscholastic athletes to participate under their sex assigned at birth and HB 113, which would effectively ban gender transition procedures and punish and fine doctors who render certain medical care, were introduced to the Montana State Legislature; and

Whereas HB 112 was passed by both chambers and signed by Governor Gianforte on May 7, 2021; and

Whereas HB 113 was amended, narrowed in scope, and ultimately voted down, then revived as HB 427; HB 427 prohibited doctors from performing gender transition procedures on a minor to treat gender dysphoria, or referring a minor to a health care provider for medical gender transition procedures; HB 427 was then indefinitely postponed in the Senate on April 20, 2021, and on April 29, 2021 died in process; and

Whereas extensive public comment was given against all of these bills by families, citizens, businesses and transgender youth; and

Whereas the Montana State Constitution adopted in 1972 states “All persons are born free and have certain inalienable rights. They include the right to...enjoying and defending their lives and liberties...and seeking their safety, health and happiness in all lawful ways.” Inalienable Rights, Article II, Part II, Section 3; and

Whereas the Montana State Constitution further states “The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.” Individual Dignity, Article II, Part II, Section 4; and

Whereas the Montana State Constitution further states “The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest. Rules of Privacy, Article II, Part II, Section 10; and

Whereas the Montana State Constitution further states “No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.” Nondiscrimination in Education, Article X, Part X, Section 7; and

Whereas Policy 3210, adopted by Missoula County Public Schools on November 11, 2003, states that “Equal educational opportunities shall be available for all students without regard to race, color, national origin, ancestry, sex, ethnicity, language barrier, religious beliefs, physical and mental handicap or disability, economic or social conditions, sexual orientation, or actual or potential marital or parental status. No student shall, on the basis of sex, be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, or advantage, or denied equal access to educational and extracurricular programs and activities,” and

Whereas in 2010 the City of Missoula passed a Non-Discrimination Ordinance (Ordinance 3428) entitled “AN ORDINANCE OF THE MISSOULA CITY COUNCIL, AMENDING MISSOULA MUNICIPAL CODE TITLE 9 PUBLIC PEACE, MORALS AND WELFARE TO ADD CHAPTER 9.64 ENTITLED “ILLEGAL DISCRIMINATION” GENERALLY PROHIBITING DISCRIMINATORY PRACTICES IN THE AREAS OF EMPLOYMENT, PUBLIC ACCOMMODATIONS AND HOUSING ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, ANCESTRY, RELIGION, CREED, SEX, AGE, MARITAL OR FAMILIAL STATUS, PHYSICAL OR MENTAL DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR GENDER EXPRESSION; and

Whereas many other municipalities in Montana have passed Non-Discrimination Ordinances, including Helena, Bozeman, Butte and Whitefish; and

Now therefore be it resolved that the Missoula City Council condemns HB 112, HB 113 and HB 427; they should never have been proposed, much less debated, and;

Be it further resolved that elected officials possess power and a responsibility to use that power to better the lives of their constituents and not harm them, and these actions by certain legislators and the Governor against a vulnerable youth population are damaging, hurtful actions, contrary to the constitutional and other jurisprudence listed above; and

Be it further resolved that the actions taken by certain Montana legislators and the Governor in proposing and debating these bills, and ultimately signing HB 112 into law violate the above cited components of our Montana State Constitution, especially with regard to transgender youth enjoying and defending their lives and liberties; seeking their safety, health and happiness in all lawful ways; further, the state is discriminating against transgender youth on the basis of their sex; their personal privacy is being infringed upon without a compelling state interest; and their ability to participate in legal

extracurricular activities through their public educational institution is being refused on account of their sex; and

Be it further resolved that the Missoula City Council desires to communicate to transgender youth that they are valued members of this community who should be able to engage in any legal extracurricular activities they wish to pursue; and further the Council wishes to communicate that it is their belief that transgender youth medical treatment decisions are a private matter between the youth, their parents, and their medical provider; and

Be it further resolved that Montana's LGBTQ+ youth are entitled to respect, privacy, inclusion, safety and security; the City of Missoula supports these youth to help them thrive and reach their potential, which in turn enriches all of us and strengthens our community; and

Be it further resolved that the City of Missoula will continue to enforce its Non-Discrimination Ordinance, and strive to improve its efficacy and impact.

PASSED AND ADOPTED this ___ day of ____, 2021.

ATTEST:

APPROVED:

Martha L. Rehbein, CMC
City Clerk

John Engen
Mayor

(SEAL)