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## East Lansing Council Votes 3-2 to Criminalize LGBTQ Conversion Therapy, Which It Probably Can't Do <sup>[1]</sup>

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**By:**

Alice Dreger



*Above: Ruth Beier (who voted against) and Aaron Stephens (in favor) last night. Photos by Raymond Holt.*

Three members of East Lansing's City Council voted last night to criminalize the practice of conversion therapy within the City limits.

Asked after the meeting whether the City has the legal authority to criminalize a mental health practice conducted by a state-licensed professional, City Attorney Tom Yeadon replied that we will find out.

The new law makes a crime any practice or treatment that seeks to change an individual's sexual orientation or gender identity against their will if the patient is under the age of eighteen.

Aaron Stephens, Shanna Draheim, and Mark Meadows voted in favor of the ordinance.

Before voting in favor of the new law, which had first been proposed by Stephens, Meadows said he wanted to go further, criminalizing conversion therapy when practiced on adults, too. He said he hoped that that would be pursued in coming days.

Erik Altmann and Ruth Beier made absolutely clear they supported the spirit of the ordinance. But they voted against it out of a combination of concerns about overreach, enforceability, and liability for the City.

Beier said she feared this would be "yet another ordinance we can't enforce."

*Below: City Manager George Lahanas (right) listens to City Attorney Tom Yeadon.*



### **Evolution at the meeting from the idea of a civil infraction to a criminal offense**

At the meeting's start, Council had on the table an ordinance similar to one passed in Huntington Woods, Michigan.

That draft would have made the offense of practicing conversion therapy a civil infraction — something that would be investigated primarily by the City's Human Relations Commission and that could lead to a fine.

Instead, at last night's meeting, the Council decided to amend the draft ordinance before voting on it, upping the offense from a civil infraction to a misdemeanor criminal offense.

That means alleged incidents of the practice will be investigated by the East Lansing Police Department and are punishable by up to 90 days in jail or a \$500 fine.

The new law as passed is aimed at "providers" who are defined as "licensed medical or mental health professional[s]." But Michigan's Department of Licensing and Regulatory Affairs (LARA), not Michigan municipalities, is charged with regulating these professionals and their practices.

ELi reported on this back in July in an extensive report on the draft law [2]. Even the attempt at making this a civil infraction "the original plan" could have been met with jurisdictional challenges. But the move to *criminalize* the practice clearly raises issues of whether the City has just legislated something it lacks the power to enforce.



At the meeting, Yeadon (above) told Council that where such bans have been upheld by courts, they have been upheld based on states' definition of the practice as medical malpractice. That, he explained, gets around the potential problem of First Amendment free speech challenges.

Asked after the meeting if the City had just seized legislative powers it lacks, Mayor Mark Meadows said that conversion therapy is not a medical practice, and therefore East Lansing's City Council can criminalize it.

But the law passed with Meadows' vote describes conversion therapy as a "treatment practice" and specifically outlaws it when practiced by licensed medical and mental health professionals.

### **Why Beier and Altmann voted against**

Beier is the only member of Council who identifies as a member of the LGBTQ community, and at the meeting last night, she said the practice of conversion therapy could, in fact, be called "aversion therapy," because she said, it is designed to be a way to make you hate yourself.

She called conversion therapy plainly "abusive," and decried it as such.

*Below: Ruth Beier*



The idea of the ordinance, she said, was "laudable, and I agree with the intention." Indeed it was Beier who first suggested in the discussion that conversion therapy might be made a criminal offense in the draft, specifically so that there could be an appropriate investigation of the "abuse" by trained police rather than by the volunteers of the Human Relations Commission.

But, ultimately Beier said, she was concerned that "the cost of defending this ordinance that we can't enforce can be huge." Any "group that spreads hate," she said, can come and sue the City over this, and she said such groups are getting "stronger and stronger in our country."

She alluded to the hundreds of thousands of dollars the City is spending defending itself <sup>[3]</sup> in the Country Mill lawsuit, in which the defendants are being represented by the Alliance Defending Freedom, a deep-pocketed conservative legal defense group.

She suggested that the right way to go on this issue would be for the state or federal governments to define conversion therapy as child abuse. She suggested that East Lansing's City Council instead pass a resolution condemning conversion therapy, even while noting a resolution "has no teeth" legally speaking.

For his part, Altmann said that "this is essentially a public health issue and we don't regulate public health." He confirmed with City Manager George Lahanas during the Council discussion that the City does not have the resources to regulate and monitor public health.



*Above, from left: City Manager George Lahanas, City Attorney Tom Yeadon, Council members Erik Altmann and Shanna Draheim.*

Altmann said that he was very concerned about "unintended consequences" of this law, and said that Council had not heard from enough people with "domain expertise" to be passing such a law.

There are lots of so-called medical practices conducted in East Lansing that he would like to outlaw, said Altmann, including instances where people are "tricked." But, he said, "this is outside our wheelhouse" because "we don't regulate public health."

## Public comment was split

During public comment, Pastor Liz Miller of Edgewood United Church came forward to speak in favor of the law banning conversion therapy practices in East Lansing. She said that as a pastor of a progressive Christian church, she gets a call about once a month from a young adult who has been told they cannot be both Christian and queer.

She said people think things like conversion therapy don't happen in East Lansing, but, she said, they do, in shadowy corners and they cause young people to feel dangerously depressed and ashamed. She urged Council to pass the ban.

Talyce Murray, Chair of the Human Relations Commission, also came to support the ban, saying it was in keeping with East Lansing's history of moving to support the civil rights of protected classes.

*Below: Mayor Mark Meadows at the meeting.*



David Shane, a physicist and resident of Chesterfield Hills, spoke against the ban, reiterating some of what he put in a July letter to Council with Steven Roskos [4]. Shane said that young people might be pushed to pursue gender transition interventions when what they really need is more open-ended therapy. He suggested the law was conflating the issues of sexual orientation and gender identity.

Roskos has an M.D. and is a physician in MSU's Department of Family Medicine and a resident of Shaw Estates, and he came with Shane last night to speak against the ordinance. Roskos said that "some forms of conversion therapy clearly been harmful and are even unethical."

But, he said, "the scientific study of both homosexuality and transgenderism is rapidly evolving," particularly in terms of youth. He said he was worried this ban might prevent patients from getting therapy they might need and want.

Roskos also said the State already regulates the professions targeted in the proposed ban and that he would rather leave this issue to the state licensing boards to manage.

But City Attorney Tom Yeadon did not speak to the question of whether the City had the jurisdiction to criminalize a medical practice.

On this issue, he answered the questions put to him by Council, and no one on Council specifically asked him whether the City could criminalize a mental health practice carried out by state-licensed professionals.

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