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Jacksonville's LGBT Protections Could Be Tested Under Local, State Or Federal Efforts

By Lindsey Kilbride

Some advocates are monitoring efforts before the Florida Legislature and in Jacksonville that could chip away at LGBT protections the city enacted last year.

[\[Audio\]](#)

Last February City Council [amended Jacksonville's human rights laws](#) to protect gay and transgender people from discrimination. In a dance party outside City Hall, people celebrated the vote making it so landlords, employers and business owners can't legally refuse housing, jobs or service just because someone's gay, bisexual or transgender.

But local LGBT activists who campaigned for the protections, like attorney Jimmy Midyette, say the fight isn't necessarily over.

"I'm confident (the protections will) stick," he said. "I've looked at the landscape and there's been a legal challenge that didn't go anywhere."

Last month, a [judge dismissed](#) a suit against the city that tried to invalidate the new HRO protections, but similar efforts are still in the works.

A group called [Empower Jacksonville](#) is collecting [petition signatures](#) for a ballot initiative giving residents the right to vote to overturn ordinances they see as unjust.

The group tweeted, "If our referendum passes, Duval County voters can repeal the HRO as early as March 2019."

Midyette said he's not terribly concerned although he's advising LGBT supporters to not sign the petitions.

A [state measure](#) on the table could also potentially affect LGBT rights. It's sponsored by Sen. Dennis Baxley, R-Ocala, and Rep. Jay Fant, R-Jacksonville.

"This effort is by necessity," Fant said. "This is in defense of the United States Constitution which unfortunately in this country is always under attack by the left."

Fant is calling it the Free Enterprise Protection Act and says it "will simply state that if you reserve your religious liberty values in not creating something in your business, which is different than serving somebody, we serve everybody in our businesses."

He says his bill is a response to an ongoing [U.S. Supreme Court case](#) involving a Colorado baker, who says his freedom of artistic expression would be infringed on if he had to decorate a wedding cake for a same-sex couple.

Fant says he wants to make sure employers can protect their artistic and religious freedoms.

“When somebody says you must create something in your creative business the way we want you to create it, you have the right to say ‘I don’t prefer to do that. It violates my religious conscious,” Fant said.

He said that’s different than serving customers.

“If you were walking into a commodity shop and they’re selling lifesavers, everyone gets to buy lifesavers,” Fant said.

But University of Florida law professor Danaya Wright said Fant’s bill doesn’t spell out the difference between service and artistic expression.

“I do not believe his bill would cut that out at all, [or] would make that distinction,” she said.

Fant’s proposal prohibits governments from discriminating against businesses on the basis of a company’s internal policies. The bill says discriminatory actions against a business could mean the city denying it a license or charging it a penalty fee.

Wright said it’s a bit unclear how the bill would affect local LGBT protections.

“I would argue that enforcing a local ordinance that is of general applicability and is a neutral ordinance, enforcing it against a business that is violating it, is not discrimination,” she said.

Wright said a lot of the possible implications depend on the outcome in the Colorado case. She said if the court decides artistic services by businesses are freedom of expression and protected by the First Amendment: “Then suddenly a large array of businesses and business activities would be able to discriminate under this bill,” she said.

Wright said if the state bill passes, it’ll most likely be challenged under a federal equal protection clause under the Constitution. It will have to be determined if the intent of the bill is to discriminate against LGBT people, or to encourage religious freedoms.

If its intent is to encourage religious freedoms she said, “then we ask ourselves is it accomplishing this goal in the best means possible, in the least discriminatory means possible?”

<http://news.wjct.org/post/jacksonville-s-lgbt-protections-could-be-tested-under-local-state-or-federal-efforts>

